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PART-IIA

GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

NOTIFICATIONS

The 8th August, 2014.

No.POL.191/2004/Pt-I/281 - In exercise of the powers conferred by section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974) and the spirit thereof, the Governor of Meghalaya is pleased to institute the following scheme to provide Fund for the purpose of awarding compensation to the victim or his dependent(s) who have suffered loss or injury or require rehabilitation as a result of the offence:

1. Short titles extent and commencement:-

- i) This scheme shall be called The Meghalaya Victim Compensation Scheme, 2014
- ii) It shall extend to the whole of the State of Meghalaya
- iii) It shall come into force at once.

2. Objectives of the Scheme :

The Scheme aims at providing:

- a) Financial assistance to the victim; and
- b) Support services such as shelter, counselling, medical aid, legal assistance, education and vocational training depending upon the needs of the victim.
- c) The Scheme shall apply to the victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the crime and who require rehabilitation.

3. Beneficiaries:

The Scheme shall cover the victim and in case of death of the victim, his dependants or the member (s) of the family of the victim who have suffered atrocity resulting from the crime.

4. Definition:

In the scheme, unless the subject or context otherwise requires:-

- a) "State" means State of Meghalaya;
- b) 'Government' means Government of Meghalaya;
- c) "Act" or "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);
- d) "Fund" means the Victim Compensation Fund;
- e) 'Victim Compensation' means the amount payable to the victim and in the case of the death of the victim, to the dependents or legal heirs of the victim;
- f). Authority means "the District Legal Services Authority" and "the State Legal Services Authority" and it shall respectively mean the District Legal Services Authority and the State Legal Services Authority constituted under section 9 and section 6 of the Legal Services Authority Act, 1987 respectively;
- g.) "Schedule" means the Schedule appended to this Scheme;
- h) "Loss or Injury" means the loss or injury as defined in Column 2 of the Schedule;
- i) The pronoun "he" and its derivatives as used in this Scheme include any person, whether male or female;
- j) "Victim" means a person who has suffered loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes in case of death of the victim, the guardian or legal heir;

5. Victim Compensation Fund

- i. There shall be constituted a fund to be named the "Victim Compensation Fund" from which the amount of compensation awarded under this scheme shall be paid to the victim or his guardian or legal heir who have suffered loss or injury as a result of the crime and who require rehabilitation. The compensation as decided by the Meghalaya State Legal Services Authority or the District Legal Services Authority as the case may be, shall be paid to the victim or his guardian or legal heir who have suffered loss or injury and require rehabilitation as a result of the crime.

- ii. The Fund shall be operated by the Secretary, State Legal Services Authority and shall be constituted out of the following funds.
- a. Grants from the Central Government, State Government or any local authority;
 - b. Subscriptions, donations and contributions received from any individual or bodies, whether incorporated or not, or international, national, philanthropist, charitable institutions or organizations;
 - c. Money received in compliance to any court order;
 - d. Budgetary allocation for which necessary provision has been made in the annual budget by the Government;
 - e. Fines imposed under Section 357 of the Code of Criminal Procedure, 1973 (1 of 1974) and ordered to be deposited by the courts in the Victim Compensation Fund;
 - f. Amount of compensation recovered from the wrongdoer or accused under the provisions of this Scheme.

6. Conditions for compensation:

- (i) Victim shall be eligible for the grant of compensation if ordered by the Court.
- (ii) Under this Scheme, the victim or guardian or legal heir, as the case may be, shall be entitled to financial assistance and restorative support services if one of the following criteria is satisfactorily fulfilled:-
 - (a) If the offender is not traced or identified, the victim may also apply for grant of compensation under sub-section (4) of section 357-A of the Act to meet expenses for physical and mental rehabilitation.
 - (b) The victim or claimant must report the crime to the officer-in-charge of the local Police Station or to the Magistrate having jurisdiction before making claim for compensation or suo moto cognizance taken of the crime by the police under whose jurisdiction the offence was committed.
 - (c) The victim or claimant (in the case of death of victim) shall fully cooperate with the police and prosecution from the stage of investigation till conclusion of trial of the case. Turning hostile or refusing to depose or failure to appear during trial shall be considered to be non cooperation.
 - (d) The crime must be one in which the victim sustains mental or bodily injury or dies.
 - (e) The death or permanent incapacitation of the victim was not the result of suicide or self-infliction of bodily or mental injury or a result of the victim's own wrong doing.
 - (f) The victim has not been compensated for the loss or injury under any other scheme of the Central or the State Government or Insurance Company or any other institutions.

- (g) Perpetrators of the crime or his dependent will not be eligible to any compensation under the scheme

[Explanation: The victim shall inform the authority the details of claims for compensation made under any other scheme or from any other source. The victim may exercise option to choose another scheme of Government, if the same is more beneficial to him. The victim will not be entitled to lay claim to both benefits and part benefit from one scheme and part from another.]

7. Procedure for grant of compensation

- i) Wherever a recommendation is made by the Court or an application is made by any victim or his dependent under sub-sections (2) or (3) of section 357-A of the Cr.P.C., 1973, to the District Legal Services Authority, it shall examine the claim and verify the contents of the same with regard to the loss or injury caused to the victim arising out of the reported criminal activity and shall also call for medical report, FIR and related records, copy of Final Form of the investigation or any other information necessary in order to determine the claim. Such information may relate to the loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses.
- ii) On being satisfied after due inquiry, the District Legal Services Authority shall determine the quantum of compensation within two months, within the ceiling of compensation fixed in the Schedule :

Provided that if the compensation awarded by the court exceeds the maximum limit, the amount of compensation so awarded shall be paid irrespective of maximum ceiling provided in the Schedule.

8. Mode of payment:

- i) Compensation under this Scheme shall be paid subject to the condition that if the trial court while passing judgment at a later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of section 357 of the CrPC, the victim or claimant (in the case of death of victim) shall remit an amount ordered equal to the amount of compensation, or the amount ordered to be paid under the said sub-section (3) of section 357 of the code, whichever is less. An undertaking to this effect shall be given by the victim or claimant (in the case of death of victim) before the disbursement of the compensation amount.

9. Basis of quantum of compensation

- (i) The quantum of compensation to be awarded to the victim or his dependents will be considered on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including incidental charges such as funeral expenses.
- (ii) The compensation shall not exceed the amount specified in the Schedule.

- (iii) Compensation received by the victim or dependent from the State in relation to the crime in question, namely, insurance, ex-gratia and / or payment received under any other Act or State-run scheme, shall be considered as part of the compensation amount under these schemes. The victim or claimant who has received compensation amount from collateral sources mentioned above shall be deemed to be compensatory under the scheme. If the eligible compensation amount exceeds the payment received by the victim or dependent from the aforementioned sources, the balance amount shall be paid from the Fund.
- (iv) The cases covered under the Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal and cases covered under existing schemes/facilities shall not be covered under this Scheme.

[Explanation: amount of compensation given to the victim or his dependents under schemes such as extremist violence, die-in-harness scheme shall not fall under the purview of this Scheme. If, however, the amount of compensation received under the schemes falls short of the amount specified under the

- (v) The Meghalaya State Legal Services Authority or the District Legal Services Authority may, in order to alleviate the suffering of the victim, order for immediate first aid facility or medical treatment to be made available free of cost on the certificate of the Officer-in-charge of the Police Station or Magistrate of the area concerned.
- (vi) In case employment is given to any family member of a victim of crime on compensatory ground, no assistance will be given to the dependent from the Scheme. In case such employment is given after release of compensation under the scheme, the assistance would not be withdrawn or amount realized, if paid already.

10. Order to be placed on record

A copy of the order of compensation passed under this Scheme shall be mandatorily placed before the trial court to enable the court to pass order of compensation under sub-section (3) of section 357 of the code.

11. Authorities responsible for implementation of the Scheme:

i) District Legal Services Authority:

The District Legal Services Authority in every district will have the exclusive jurisdiction to deal with applications for compensation under the Scheme .

ii) Functions of the District Legal Services Authority:

The District Legal Services Authority shall perform the following functions:-

- (a) To consider the claims and provide financial assistance and support services, as the case may be, in accordance with the procedures prescribed under the scheme.

- (b) To recommend for psychological, medical, educational and legal assistance to the affected persons, by the concerned authorities.
- (c) To arrange for counseling support to the affected woman including counseling of the spouse in case the affected woman is married.
- (d) To arrange shelter for the affected person for such period as may be required and in this regard issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.
- (e) To recommend to the State Legal Services Authority the quantum of compensation to be awarded to a victim and the amount that shall be recommended shall not exceed the maximum limit as per the Schedule.
- (f) The amount of compensation as allotted to the District Legal Service Authority by the State Legal Services Authority from the fund shall be disbursed to the victim.

12. Procedure for payment:

- i) The amount of compensation shall be deposited in a Nationalized Bank branch or in a scheduled Commercial Bank or in a Post Office in the joint or single name of the victim or dependent(s) as the case may be. The payment from the Victim Compensation Fund will be made by Account Payee Cheque or electronic money transfer into the account of the payee.
- ii) The compensation awarded shall be paid in two phases, the first half being within any time during the inquiry or investigation launched under the provisions of CrPC or before commencement of trial and the balance on conclusion of the trial.

Provided that in case of a victim of acid attack, out of the compensation awarded, a sum of Rs. 1 Lakh shall be paid within 15 days from the date of occurrence of such incident and the balance amount of Rs. 2 lakh shall be paid as expeditiously as may be possible and positively within two months thereafter.

13. Budget Allocation.

Govt. shall make necessary budget provisions for making contribution into the fund

14. Maintenance of Accounts :-

The Deputy Commissioner/District Legal Service Authority and the State Legal Service Authority shall maintain accounts for receipt and expenditure as per the financial procedure of the State Government.

15. Audit of Accounts:-

The accounts of the District Legal Service Authority and the State Legal Service Authority shall be audited by the local audit and by the Accountant General.

16. Recovery of compensation awarded to the victim or dependent(s) :-

Subject to the provisions of sub-section(3) of section 357A of the Code, the Meghalaya Legal Service Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or his dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him.

17. Limitation

Under the Scheme, no claim made by the victim or his dependent(s) under sub-section (4) of section 357A of the Code, shall be entertained after a period of twelve months from the date of occurrence of the crime.

18. Appeal

Any victim aggrieved by an order of denial of compensation by the District Legal Service Authority may file an appeal before the State Legal Service Authority within a period of ninety days.

Provided that the State Legal Services Authority, if it is satisfied, and for the reasons to be recorded in writing, may condone the delay in filing the appeal.

19. Supersession

The Meghalaya Victim Compensation Scheme, 2011 as notified vide Notification No. Pol 191/2004/pt/135 dated 20th March, 2012 hereby stands repealed from the date of the notification of this Scheme in the Meghalaya Gazette.

Notwithstanding such repeal, any order issued, action taken or anything whatsoever done under the provisions of the Scheme so repealed shall be deemed to have been made, issued, taken or done under the corresponding provisions of this Scheme.

J. LYNGDOH,
Commissioner & Secretary to the Govt. of Meghalaya,
Political Department.

Sr. No.	Particular of Loss or Injury	Maximum Age Limit of Compensation	
1	2	3	4
1.	Loss of Life	a. Age 40 years or below 40 years. b. Age above 40 years and up to 60 years. c. Age above 60 years	Rs. 3.00 lacs Rs 2.00 lacs Rs.1.00 lac
2.	Loss of any limb or part of body above 40%	a. Age 40 years or below 40 years. b. Age above 40 years and up to 60 years. c. Age above 60 years.	Rs. 2.00 lacs Rs. 1.00 lac Rs. 50,000/-
3.	Loss of any limb or part of body below 40%	a. Age 40 years or below 40 years. b. Age above 40 years and up to 60 years. c. Age above 60 years.	Rs. 1.00 lac Rs. 50,000/ Rs. 25,000/-
4.	Rape		Rs.3.00 Lacs
5.	Acid Attack*		Rs.3.00 Lacs
6.	Loss or injury causing severe mental agony to women and child victims in cases like human trafficking, kidnapping and molestation etc.		Rs. 50,000/-
7	The following expenses shall be payable in addition to compensation outlined above.		
	(i) Funeral expenses		Rs.10000/-
	(ii) Medical Expenses - Actual expenses incurred before death or on account of injury supported by bills/vouchers but not exceeding Rs.15,000/-		

Scheduled I

***Explanation:** The minimum compensation of Rs. 3 lacs has been fixed for acid attack victims as per the order and judgment dated 18.7.2013 of the Hon'ble Supreme Court of India in Laxmi -vrs- Union of India and others (Writ petition (CRL) No. 129 of 2006) to enable the victim to meet the cost related to after care and rehabilitation. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Govt./Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.

The 10th September, 2014.

No. CTA -63/2011/1282.— In pursuance of the provision of Sub-Rule 9 of the Rule 8 of the Central Sales Tax (Meghalaya) Rule 1957, it is hereby notified for general information that the Form 'C' bearing Sl. No. 0059333, 0059334, 0059335 & 0059336 issued by the Superintendent of Taxes, Ri-Bhoi District, Nongpoh was lost from the custody of M/s Nalari Ferro Alloys Pvt. Ltd. EPIP, Byrnihat are hereby declared invalid and obsolete for the purpose of Section 8(4) of the CST Act, 1956. Dealers are cautioned against accepting of the said form for the purpose of trade and the finder of the lost 'C' forms should please return the same to the undersigned. Anyone fraudulently found using the said form will bind himself liable for action in accordance with the provisions of the Central Sales Tax Act, 1956 and the Rules framed thereunder.

ABHISHEK BHAGOTIA,
Commissioner of Taxes, etc.,
Meghalaya, Shillong.

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

The 15th September, 2014

No.MSERC/REGULATIONS/2014/01. - In exercise of the powers conferred by clauses (zc), (zd) and (ze) of sub-section (2) of section 181 read with section 61, section 62, section 63, section 64, section 65 and section 86 of the Electricity Act 2003 (36 of 2003) and all other powers enabling on that behalf the Meghalaya State Electricity Regulatory Commission hereby makes, after previous publication, the following Regulations, namely, the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2014.

J. B. POON,

Secretary

Meghalaya State Electricity Regulatory Commission

Shillong.

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION**(MULTI YEAR TARIFF) REGULATIONS, 2014****Regulations 1 of 2014****CHAPTER 1****PRELIMINARY****1 Short title, extent, commencement and applicability**

- 1.1 These Regulations may be called the Meghalaya State Electricity Regulatory Commission Multi Year Tariff Regulations, 2014.
- 1.2 They shall extend to the whole of the State of Meghalaya.
- 1.3 They shall come into force on the date of their publication in the Official Gazette.
- 1.4 They shall be applicable for the determination of tariff effective from April 1, 2015 in all cases covered under these Regulations.

Provided that for the purpose of review or of truing up of revenues and expenses pertaining to FYs prior to 2015-16, the provisions under MSERC (Terms and Conditions for Determination of Tariff) Regulations, 2011 shall apply.

- 1.5 They shall be applicable to all existing and future Generating Companies, Transmission Licensees and Distribution Licensees and their successors, if any;
- 1.6 They shall supersede the Meghalaya State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2011.

2 Definitions

- 1) **"Accounting Statement"** means for each financial year, the following statements, namely:
 - i. balance sheet, prepared in accordance with the form contained in Part I of Schedule VI to the Companies Act, 1956 as amended from time to time;
 - ii. profit and loss account, complying with the requirements contained in Part II of Schedule VI to the Companies Act, 1956 as amended from time to time;
 - iii. cash flow statement, prepared in accordance with the Accounting Standard on Cash Flow Statement (AS-3) of the Institute of Chartered Accountants of India;
 - iv. report of the statutory auditors;
 - v. cost records prescribed by the Central Government under Section 209(1)(d) of the Companies Act, 1956 as amended from time to time;
 - vi. together with notes thereto, and such other supporting statements and information as the Commission may direct from time to time;
 - vii. Provided that in case of any local authority engaged in the business of distribution of electricity, the Accounting Statement shall mean the items, as mentioned above, prepared and maintained in accordance with the relevant Acts or Statutes as applicable to such local authority:

Provided further that once the Commission notifies the Regulations for submission of Regulatory Accounts, the applications for tariff determination and truing up shall be based on the Regulatory Accounts.

- 2) **"Act"** means the Electricity Act, 2003 (36 of 2003), as amended from time to time;
- 3) **"Allocation Statement"** means for each financial year, a statement in respect of each of the separate businesses of the Generating Company or Transmission Licensee or Distribution Licensee, showing the amounts of any revenue, cost, asset, liability, reserve or provision etc, which has been either:
 - i. charged from or to each such Other Business together with a description of the basis of that charge; or
 - ii. determined by apportionment or allocation between different businesses of the licensee including the Licensed Businesses, together with a description on the basis of apportionment or allocation: Provided that for the purpose of this Regulation, the licensed business of the Distribution Licensee for an area of supply if separated as Distribution business: Provided further that such allocation statement in respect of a generating station, owned and/or maintained and/or operated by the distribution licensee, shall be maintained in a manner so as to enable tariff determination, stage-wise, Unit wise and/or for the whole generating station.
- 4) **"Allotted Transmission Capacity"** means the power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a long-term customer or a medium-term customer on the intra-State transmission system under the normal circumstances and the expression "allotment of transmission capacity" shall be construed accordingly:

Provided that the Allotted Transmission Capacity to a long-term transmission customer or a medium-term transmission customer shall be sum of the generating capacities allocated to the long-term transmission customer or the medium-term transmission customer from the generating stations and the contracted power, if any;

- 5) **"Applicant"** means a Generating Company or Transmission Licensee or Distribution Licensee who has made an application for determination of Aggregate Revenue Requirement and tariff in accordance with the Act and these Regulations and includes a Generating Company or Transmission Licensee or Distribution Licensee whose tariff is the subject of a review by the Commission either on suo-motu basis or on a petition filed by any interested or affected person or as part of a Truing-up exercise;
- 6) **"Aggregate Revenue Requirement"** means the requirement of the Generation Company, Transmission Licensee or Distribution Licensee for recovery, through tariffs, of allowable expenses and return on equity pertaining to its Licensed Business, in accordance with these Regulations;
- 7) **"Area of Supply"** means the area within which a distribution licensee is authorized by his license to supply electricity;
- 8) **"Authority"** means Central Electricity Authority referred to in Section 70 of the Act;
- 9) **"Auxiliary Energy Consumption"** in relation to a period, means the quantum of energy consumed by auxiliary equipment of the generating station and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the Units of the generating station:
 Provided that for the purpose of these Regulations, auxiliary energy consumption for a generating station shall include transformer losses within the generating station: Provided further that colony consumption of a generating station shall not be included as part of the auxiliary consumption for the purpose of these Regulations.
- 10) **"Availability"** in relation to a thermal generating station for any period means the average of the daily average declared capacities as certified by Meghalaya State Load Dispatch Centre (SLDC) for all the days during that period expressed as a percentage of the installed capacity of the generating station, minus normative auxiliary consumption as specified in these Regulations, and shall be computed in accordance with the following formula:

$$\text{Availability} = \frac{10000 \times \sum_{i=1} \text{DC}_i}{\{ N \times \text{IC} \times (100 - \text{AUX}_n) \}} \%$$

Where, N = number of days in the given period;

DC_i = Average Declared Capacity in MW for the i th day in such period;

IC = Installed Capacity of the generating station in MW;

AUX $_n$ = Normative Auxiliary Consumption, expressed as a percentage of gross generation;

- 11) **"Availability"** in relation to a transmission system for a given period means the time in hours during that period the transmission system is capable of transmitting electricity at its rated voltage expressed in percentage of total hours in the given period and shall be calculated as provided in these Regulations;
- 12) **"Bank Rate"** shall mean the Bank Rate declared by the Reserve Bank of India from time to time;
- 13) **"Base year"** shall mean the two financial years immediately preceding the first year of the control period.
- 14) **"Bulk Power Transmission Agreement"** means an executed Agreement that contains the terms and conditions under which a Transmission System User is entitled to access an intra-State transmission system of a Transmission Licensee;
- 15) **"Business Plan"** shall comprise of elements as specified in Regulation 8 of these Regulations;
- 16) **"change in law"** means occurrence of any of the following events:
 - i. the enactment, bringing into effect, adoption, promulgation, amendment, modification or repeal of any law; or
 - ii. change in interpretation of any law by a competent Court, Tribunal or Indian Governmental Instrumentality, which is the final authority under law for such interpretation; or
 - iii. change by any competent statutory authority, in any consent, approval or licensee.
- 17) **"Commission"** means the Meghalaya State Electricity Regulatory Commission;
- 18) **"Control Period"** means the period of three years from April 1, 2015 to March 31, 2018, and for every block of three years thereafter, for submission of forecast in accordance with **Chapter-2** of these Regulations;

- 19) **"Cut-off Date"** means 31st March of the year closing after two years of the year of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation;
- 20) **"Day"** means the 24 hour period starting at 00:00 hour;
- 21) **"Date of Commercial Operation" (COD)** means:
- a. in relation to a unit or block of a thermal generating station, the date declared by the generating company, after demonstrating the Maximum Continuous Rating (MCR) or the Installed Capacity (IC) through a successful trial run after notice to the beneficiaries, from 00:00 hour of which scheduling process as per the IEGC/Commission's Order is fully implemented;
 - b. in relation to the generating station, the date of commercial operation means the date of commercial operation of the last unit of the generating station;
 - c. in relation to a unit of a hydro generating station, the date declared by the Generating Company from 00:00 hour of which, after notice to the beneficiaries, scheduling process in accordance with the IEGC/Commission's Order is fully implemented, and in relation to the generating station as a whole, the date declared by the Generating Company after demonstrating peaking capability corresponding to installed capacity of the generating station through a successful trial run, after notice to the beneficiaries;

Note:

- i. In case the hydro generating station with pondage or storage is not able to demonstrate peaking capability corresponding to the installed capacity for the reasons of insufficient reservoir or pond level, the date of commercial operation of the last unit of the generating station shall be considered as the date of commercial operation of the generating station as a whole, provided that it will be mandatory for such hydro generating station to demonstrate peaking capability equivalent to installed capacity of the generating unit or the generating station as and when such reservoir/pond level is achieved.

- ii. In case of purely run-of-river hydro generating station, if the unit or the generating station is declared under commercial operation during lean inflows period when the water is not sufficient for such demonstration, it shall be mandatory for such hydro generating station or unit to demonstrate peaking capability equivalent to installed capacity as and when sufficient inflow is available.
- iii. in relation to the transmission system, the date declared by the transmission licensee from 00:00 hour of which an element of the transmission system is in regular service after successful charging and trial operation:
Provided that the date shall be the first day of a calendar month and transmission charge for the element shall be payable and its availability shall be accounted for, from that date: provided further that in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, its suppliers or contractors, the Commission may approve the date of commercial operation prior to the element coming into regular service.

22) **"Declared Capacity"** means

- a. for a thermal generating station, the capability of the generating station to deliver ex-bus electricity in MW declared by such generating station in relation to any period of the day or whole of the day, duly taking into account the availability of fuel:

Provided that in case of a gas turbine generating station or a combined cycle generating station, the generating station shall declare the capacity for units and modules on gas fuel and liquid fuel separately, and these shall be scheduled separately. Total declared capacity and total scheduled generation for the generating station shall be the sum of the declared capacity and scheduled generation for gas fuel and liquid fuel for the purpose of computation of availability and Plant Load Factor, respectively;

- b. for hydro power generating stations, the ex-bus capacity in MW expected to be available from the generating station for the *i*th day of the month, which the station can deliver for at least three (3) hours, as certified by the Meghalaya State Load Dispatch Centre after the day is over, taking into account the availability of water;

- 23) **“Design Energy”** in relation to a hydro power generating station means the quantum of energy, which could be generated in a 90 per cent dependable year with 95 per cent installed capacity of the generating station;
- 24) **“Distribution Business”** means the business of operating and maintaining a distribution system for supplying electricity in the area of supply of the Distribution Licensee;
- 25) **“Expected Revenue from Tariff and Charges”** means the revenue estimated to accrue to the Generating Company or Transmission Licensee or Distribution Licensee from the Regulated Business at the prevailing tariffs;
- 26) **“Existing Generating Unit/Station”** means a generating unit/station declared under commercial operation prior to the date of effectiveness of these Regulations;
- 27) **“Existing Project”** means a project declared under commercial operation prior to the date of effectiveness of these Regulations;
- 28) **“Event”** means an unscheduled or unplanned occurrence in the intra-State transmission system including faults, incidents and breakdowns;
- 29) **“Force Majeure Event”** means, with respect to any party, any event or circumstance, which is not within the reasonable control of, and is not due to an act of omission or commission of, that party and which, by the exercise of reasonable care and diligence, could not have been prevented, and without limiting the generality of the foregoing, would include the following events:
- a. acts of God, including but not limited to lightning, storm, action of the elements, earthquakes, flood, torrential rains, drought and natural disaster;
 - b. strikes, lockouts, go-slow, bandh or other industrial disturbances not instigated by any party;
 - c. acts of public enemy, wars (declared or undeclared), blockades, insurrections, riots, revolution, sabotage, vandalism and civil disturbance;
 - d. unavoidable accident, including but not limited to fire, explosion, radioactive contamination and toxic dangerous chemical contamination;

- e. any shutdown or interruption of the grid, which is required or directed by the State or Central Government or by the Commission or the Meghalaya State Load Dispatch Centre;
- 30) **"Generation Business"** means the business of production of electricity from a generating station for the purpose of (i) giving supply to any premises or enabling a supply to be so given, or (ii) supply of electricity to any Licensee in accordance with the Act and the rules and Regulations made there-under and, (iii) supply of electricity to any consumer subject to the Regulations made under sub-section (2) of section 42 of the Act;
- 31) **"Gross Calorific Value"** in relation to a thermal generating station means the heat produced in kilocalories by complete combustion of one kilogram of solid fuel or one liter of liquid fuel or one standard cubic metre of gaseous fuel, as the case may be;
- 32) **"Gross Station Heat Rate"** means the heat energy input in kcal required to generate one kWh of electrical energy at generator terminals;
- 33) **"High Tension"** or **"HT"** means all voltages defined as "high" or "extra high" voltage under clause (av) of sub-rule (1) of Rule 2 of the Indian Electricity Rules, 1956 and corresponding voltage classifications as may be specified in accordance with clause (c) of sub-section (2) of Section 185 of the Act;
- 34) **"Infirm power"** means electricity injected into the grid prior to the commercial operation of a Unit or Block of the generating station;
- 35) **"Installed Capacity"** means the summation of the name plate capacities of all the units of the generating station or the capacity of the generating station (reckoned at the generator terminals) as approved by the Commission from time to time;
- 36) **"Maximum Continuous Rating" or 'MCR"** in relation to a unit of the thermal generating station means the maximum continuous output at the generator terminals, guaranteed by the manufacturer at rated parameters, and in relation to a Block of a combined cycle thermal generating station means the maximum continuous output at the generator terminals, guaranteed by the manufacturer with water or steam injection (if applicable) and corrected to 50 Hz grid frequency and specified site conditions;

- 37) **"Mid-term Review"** means a review to be undertaken in accordance with provisions of regulations 4.2(a)-second proviso and 6.2 (c) of these Regulations;
- 38) **"New Generating Unit/Station"** means a generating unit/station declared under commercial operation on or after the date of coming into force of these Regulations;
- 39) **"Normative Annual Plant Availability Factor" or "NAPAF"** in relation to a thermal generating station means the availability factor specified in Regulation 51(1) for thermal generating stations and in relation to a hydro generating station means the availability factor specified in Regulation 58.1 for hydro generating stations;
- 40) **"Non-Tariff Income"** means income relating to the regulated business other than from tariff, excluding any income from Other Business and, in case of the Retail Supply Business of a Distribution Licensee, excluding income from wheeling and receipts on account of cross-subsidy surcharge and additional surcharge on charges of wheeling;
- 41) **"Operation and Maintenance expenses" or "O&M expenses":**
- a. In relation to a Generating Company, the expenditure incurred on operation and maintenance of the project of a Generating Company, or part thereof, and includes the expenditure on manpower, repairs, spares, consumables, insurance and overheads;
 - b. In relation to a Transmission Licensee or Distribution Licensee, the expenditure incurred on operation and maintenance of the system by the Transmission Licensee or Distribution Licensee, and includes the expenditure on manpower, repairs, spares, consumables, insurance and overheads;
- 42) **"Original Project Cost"** means the capital expenditure incurred by the Generating Company or the Transmission Licensee, as the case may be, within the original scope of the project up to the cut-off date as admitted by the Commission;
- 43) **"Other Business"** means any business undertaken by the Generating Company, Transmission Licensee or Distribution Licensee, other than the businesses regulated by the Commission;

- 44) **"Project"** means a generating station or the transmission system, as the case may be, and in case of a hydro generating station includes all components of generating facility such as penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, intake water conductor system, power generating station and generating units of the scheme, as apportioned to power generation;
- 45) **"Rated Voltage"** means the manufacturer's design voltage at which the transmission system is designed to operate or such lower voltage at which the line is charged, for the time being, in consultation with Transmission System Users;
- 46) **"Regulated Business"** means any electricity business, which is regulated by the Commission.
- 47) **"Retail Supply Business"** means the business of sale of electricity by a Distribution Licensee to his consumers in accordance with the terms of his license;
- 48) **"Run-of-river generating station"** means a hydro generating station, which does not have upstream pondage;
- 49) **"Run-of-river generating station with pondage"** means a hydro generating station with sufficient pondage for meeting the diurnal variation of power demand;
- 50) **"Small gas turbine generating station"** means and includes open cycle gas turbine or combined cycle generating stations with gas turbines in the capacity range of 50 MW or below;
- 51) **"Scheduled Generation" or "SG"** at any time or for any period or time block means schedule of generation in MW ex-bus given by the State Load Dispatch Centre;
- 52) **"Storage type power station"** means a hydro power generating station associated with large storage capacity to enable variation in generation of electricity according to demand;
- 53) **"Transmission System"** means a line or a group of lines with or without associated sub-station, and includes equipment associated with transmission lines and sub-stations;

54) **“Transmission System User”** means a person who has been allotted transmission capacity rights to access an intra-State transmission system pursuant to a Bulk Power Transmission Agreement, except as provided in the Meghalaya State Electricity Regulatory Commission (Terms & Conditions of Open Access) Regulations, 2012, as applicable and as amended from time to time;

55) **“Unit”** in relation to a thermal generating station other than combined cycle thermal generating station means steam generator, turbine-generator and auxiliaries, or in relation to a combined cycle thermal generating station, means turbine-generator and auxiliaries; and in relation to a hydro generating station means turbine-generator and its auxiliaries;

56) **“Useful life”** in relation to a unit of a generating station, transmission system and distribution system from the date of commercial operation shall mean the following, namely:

- i. Coal/Lignite based thermal generating : 25 years;
- ii. Gas/Liquid fuel based thermal generating station : 25 years;
- iii. Hydro generating station : 35 years;
- iv. AC and DC sub-station : 25 years;
- v. Transmission line : 35 years;
- vi. Distribution line : 35 years;

57) **“Year”** means a financial year (FY);

58) The words and expressions used in these Regulations and not defined herein but defined in the Act shall have the meaning assigned to them under the Act.

3 Scope of Regulation

3.1 The Commission shall determine tariff within the Multi-Year Tariff framework, for all matters for which the Commission has jurisdiction under the Act, including in the following cases:

- i. Supply of electricity by a Generating Company to a Distribution Licensee:

Provided that where the Commission believes that a shortage of supply of electricity exists, it may fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a Generating Company and a Distribution Licensee or between distribution licensees, for a period not exceeding one year to ensure reasonable prices of electricity;

- ii. Intra-State transmission of electricity and SLDC charges;
- iii. Intra-State Wheeling of electricity;
- iv. Retail supply of electricity:

Provided that in case of distribution of electricity in the same area by two or more Distribution Licensees, the Commission may, for promoting competition among Distribution Licensees, fix only maximum ceiling of tariff for retail sale of electricity:

Provided further that where the Commission has allowed open access to certain consumers under sub-section (2) of Section 42 of the Act, the Commission shall determine the wheeling charges, cross subsidy surcharge, additional surcharges and other open access related charges in accordance with these regulations and MSERC (Terms and Conditions of Open Access) Regulations 2012 as applicable and as amended through Orders issued by the Commission from time to time.

- 3.2 The Commission may also determine the rate at which the Distribution Licensee can supply power to other Distribution Licensees in the State.
- 3.3 Notwithstanding anything contained in these Regulations, the Commission shall adopt the tariff if such tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Government pursuant to Section 63 of the Act.
- 3.4 These regulations shall not apply to renewable sources of energy which shall be governed by separate regulations of the Commission.

CHAPTER 2

GENERAL GUIDING PRINCIPLES

4 Multi-Year Tariff framework

- 4.1 The Commission shall determine the tariff for matters covered under clauses (i), (ii), (iii) and (iv) of regulation 3 above under Multi- Year Tariff framework with effect from April 01, 2015.

Provided that the Commission may, either on *suo-moto* basis or upon application made to it by an applicant, exempt the determination of tariff of a Generating Company or Transmission Licensee or Distribution Licensee under the Multi-Year Tariff framework for such period as may be contained in the Order granting such an exemption.

- 4.2 The Multi-Year Tariff framework shall be based on the following elements, for determination of Aggregate Revenue Requirement and expected revenue from tariff and charges for Generating Company, Transmission Licensee, and Distribution Business:

- a) A detailed Business Plan based on the principles specified in these Regulations, for each year of the Control Period, shall be submitted by the applicant for the Commission's approval:

Provided that the performance parameters, whose trajectories have been specified in the Regulations, shall form the basis of projection of these performance parameters in the Business Plan:

Provided further that a Mid-term Review of the Business Plan may be sought by the Generating Company, Transmission Licensee and Distribution Licensee through an application filed three (3) months prior to the filing of Petition for truing-up for the second year of the Control Period and the tariff determination for the third year of the control period.

- b) Based on the Business Plan, the applicant shall submit the forecast of Aggregate Revenue Requirement (ARR) for the entire Control Period and expected revenue from existing tariffs for first year of the Control Period and the Commission shall determine ARR for the entire Control Period and the tariff for the first year of the control period for the Generating Company, Transmission Licensee, Distribution Business;
- c) Truing up of previous year's expenses and revenue based on Audited Accounts vis-à-vis the approved forecast and categorization of variation in

performance as those caused by factors within the control of the applicant (controllable factors) and those caused by factors beyond the control of the applicant (uncontrollable factors), shall be undertaken by the Commission:

Provided that once the Commission notifies the Regulations for submission of Regulatory Accounts, the applications for tariff determination and truing up shall be based on the Regulatory Accounts;

- (i) The mechanism for pass-through of approved gains or losses on account of uncontrollable factors as specified by the Commission in these Regulations;
- (ii) The mechanism for sharing of approved gains or losses on account of controllable factors as specified by the Commission in these Regulations;
- (iii) Annual determination of tariff for Generating Company, Transmission Licensee, Distribution Business, for each financial year within the Control Period, based on the approved forecast and results of the truing up exercise.

5 Determination of base line

- 5.1 The base line values (operating and cost parameters) for the base year of the control period shall be determined by the Commission based on historical data, latest audited accounts, estimates for the relevant year and prudence check as may be applied by the Commission.

Provided that in case of substantial difference between the estimates earlier provided for determination of base lines values and the actual audited accounts, the Commission may re-determine the base line value for the base year suo motto or on an application.

6 Accounting statement and filing under MYT

- 6.1 The filing under MYT by the Generating Company, Transmission Licensee, and Distribution Licensee, shall be done on or before 30th November each year to the Commission and in compliance with the principles for determination of ARR as specified in these Regulations, in such formats and at such time as may be prescribed by the Commission from time to time. The filing of truing up of petitions prior to MYT period shall be done in the manner and at such time as may be decided by the Commission.
- 6.2 The filing of MYT Petition for the Control Period under these Regulations shall be as under:
- a) MYT Petition shall comprise of:
 - i. Multi-year Aggregate Revenue Requirement for the entire Control Period with year-wise details;
 - ii. Revenue from the sale of power at existing tariffs and charges and projected revenue gap, for the first year of the Control Period under these Regulations.
 - iii. Application for determination of tariff for first year of the Control Period.
 - b) From the first year of the Control Period and onwards, the Petition shall comprise of:
 - i. Truing Up for previous years under Meghalaya State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2011 in accordance with these Regulations;
 - ii. Revenue from the sale of power at existing tariffs and charges for the ensuing year;
 - iii. Revenue gap for the ensuing year calculated based on ARR approved in the Tariff Order or MYT Order and truing up for the previous year;
 - iv. Application for revision of tariff for the ensuing year.
 - c) In case of Mid-term Review of Business Plan, the Petition shall comprise of:
 - i. Truing Up for the previous year;

- ii. Modification of the ARR for the remaining years of the Control Period, if any, with adequate justification for the same;
- iii. Revenue from the sale of power at existing tariffs and charges for the ensuing year;
- iv. Revenue gap for the ensuing year calculated based on ARR approved in the MYT order and truing up for the previous year;
- v. Application for revision of tariff for the ensuing year.

6.3 The Generating Company, Transmission Licensee, and Distribution Licensee, shall file separate audited accounting statements with the application for determination of tariff and truing up:

In case complete accounting segregation has not been done amongst various Businesses of the restructured business, all business utilities shall have to do so within one year of notification of these Regulations. Till such time there is a complete segregation of audited accounts between Generation, Transmission, Distribution Businesses, the application for determination ARR and tariff and truing up for each Business shall be supported by an Allocation Statement that contains the apportionment of costs and revenues to that Business. The Allocation Statement shall also contain the methodology that has been used for the apportionment.

7 Applicability

7.1 The Multi-Year Tariff framework shall apply to applications made for determination of tariff for a Generating Company, Transmission Licensee, and Distribution Licensee for Distribution Business.

8 Business Plan

8.1 The Generating Company, Transmission licensee, and Distribution Licensee for Distribution Business, shall file a Business Plan for the Control Period of three (3) financial years from 1st April 2015 to 31st March 2018, which shall comprise but not be limited to detailed category-wise sales and demand projections, power procurement plan, capital investment plan, financing plan and physical targets, in accordance with guidelines

and formats, as may be prescribed by the Commission from time to time:

Provided that a mid-term review of the Business Plan/Petition may be sought by the Generating Company, Transmission Licensee and Distribution Licensee through an application filed three (3) months prior to the specified date of filing of Petition for truing up for the second year of the Control Period and tariff determination for the third year of the Control Period.

- 8.2 The capital investment plan shall show separately, on-going projects that will spill over into the Control Period, and new projects (along with justification) that will commence in the Control Period but may be completed within or beyond the Control Period. The Commission shall consider and approve the capital investment plan for which the Generating Company, Transmission Licensee, and Distribution Licensee for the Distribution Business, may be required to provide relevant technical and commercial details.
- 8.3 The Distribution Licensee shall project the power purchase requirement based on the Merit Order Dispatch principles of all Generating Stations considered for power purchase, the Quantum of Renewable Purchase Obligation (RPO) under Meghalaya State Electricity Regulatory Commission (Renewal Energy Purchase Obligation and Compliance) Regulations, 2010 and the target set, if any, for Energy Efficiency (EE) and Demand Side Management (DSM) schemes.
- 8.4 The Generating Company, Transmission Licensee, and Distribution Licensee for the Distribution Business, shall get the Business Plan approved by the Commission.

9 Multi-Year Tariff Application

- 9.1 The applicant shall submit the forecast of Aggregate Revenue Requirement for the entire Control Period and tariff proposal for the first year of the Control Period, in such manner, and within such time limit as provided in these Regulations and accompanied by such fee payable, as

may be specified under the Meghalaya State Electricity Regulatory Commission (Fees, Fines and Charges) Regulations, 2009, as amended from time to time.

- 9.2 The applicant shall develop the forecast of Aggregate Revenue Requirement using the assumptions relating to the behavior of individual variables that comprise the Aggregate Revenue Requirement during the Control Period.
- 9.3 The applicant shall develop the forecast of expected revenue from tariff and charges based on the following:
- a) In the case of a Generating Company, estimates of quantum of electricity to be generated by each Unit/Station for ensuing financial year within the Control Period;
 - b) In the case of a Transmission Licensee, estimates of transmission capacity allocated to Transmission System Users for ensuing financial year within the Control Period;
 - c) In the case of a Distribution Licensee, estimates of quantum of electricity to be supplied to consumers and to be wheeled on behalf of Distribution System Users for ensuing financial year within the Control Period;
 - d) Prevailing tariffs as on the date of making the application.
- 9.4 Based on the forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges, the Generating Company, Transmission Licensee, and Distribution Licensee for the Distribution Business, shall propose the tariff that would meet the gap, if any, in the Aggregate Revenue Requirement.
- 9.5 The applicant shall provide full details supporting the forecast, including but not limited to details of past performance, proposed initiatives for achieving efficiency or productivity gains, technical studies, contractual arrangements and/or secondary research, to enable the Commission to assess the reasonableness of the forecast.

9.6 On receipt of application, the Commission shall either:

- a) issue an Order approving the ARR for the entire Control Period and the tariff for the first year of the Control Period, subject to such modifications and conditions as it may specify in the said Order; or
- b) reject the application for reasons to be recorded in writing, as the Commission may deem appropriate:

Provided that the applicant shall be given a reasonable time for being heard before rejecting their application.

10 Specific trajectory for certain variables

10.1 While approving the Business Plan/MYT Petition, the Commission shall stipulate a trajectory for the variables, which shall include, but not be limited to Operation & Maintenance expenses, target plant load factor, distribution losses and collection efficiency:

10.2 Provided that the Generating Company, Transmission Licensee and Distribution Licensee may seek a review of the trajectory at the time of mid-term review of Business Plan.

11 Truing Up

11.1 Where the Aggregate Revenue Requirement and expected revenue from tariff and charges of a Generating Company or Transmission Licensee or Distribution Licensee is covered under a Multi-Year Tariff framework, then such Generating Company or Transmission Licensee or Distribution Licensee, as the case may be, shall be subject to truing up of expenses and revenue during the Control Period in accordance with these Regulations.

11.2 The Generating Company or Transmission Licensee or Distribution Licensee shall file an Application for Truing up of the previous year and determination of tariff for the ensuing year, within the time limit specified in these Regulations:

11.3 Provided that the Generating Company or Transmission Licensee or Distribution Licensee, as the case may be, shall submit to the Commission

information in such form as may be prescribed by the Commission, together with the Audited Accounts including audit report by CA&G, extracts of books of account and such other details as the Commission may require to assess the reasons for and extent of any variation in financial performance from the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges:

- 11.4 Provided further that once the Commission notifies the Regulations for submission of Regulatory Accounts applications for tariff determination and truing up shall be based on the Regulatory Accounts.
- 11.5 The scope of the truing up shall be a comparison of the performance of the Generating Company or Transmission Licensee or Distribution Licensee with the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges and shall comprise of the following:
- a) a comparison of the audited performance of the applicant for the previous financial year with the approved forecast for such previous financial year, subject to the prudence check including pass-through of impact of uncontrollable factors;
 - b) Review of compliance with directives issued by the Commission from time to time;
 - c) Other relevant details, if any.

11.6 In respect of the expenses incurred by the Generating Company, Transmission Licensee and Distribution Licensee during the year for controllable and uncontrollable parameters, the Commission shall carry out a detailed review of performance of an applicant vis-a-vis the approved forecast as part of the truing up.

11.7 Upon completion of the truing up under Regulation 11.4 above, the Commission shall attribute any variations or expected variations in performance for variables specified under Regulation 12 below, to factors within the control of the applicant (controllable factors) or to factors beyond the control of the applicant (uncontrollable factors):

Provided that any variations or expected variations in performance, for variables other than those specified under Regulation 12.1 below shall be attributed entirely to controllable factors.

11.8 Upon completion of the Truing Up, the Commission shall pass an order recording:

- a) the approved aggregate gain or loss to the Generating Company or Transmission Licensee or Distribution Licensee on account of controllable factors, and the amount of such gains or such losses that may be shared in accordance with Regulation 14 of these Regulations;
- b) Components of approved cost pertaining to the uncontrollable factors, which were not recovered during the previous year, shall be pass through as per Regulation 13 of these Regulations;
- c) Tariff determined for the ensuing year.

12 Controllable and uncontrollable factors

12.1 For the purpose of these Regulations, the term “uncontrollable factors” shall comprise of the following factors, which were beyond the control of the applicant, and could not be mitigated by the applicant:

- a) Force Majeure events;
- b) Change in law, judicial pronouncements and Orders of the Central Government, State Government or Commission;

- c) Variation in the price of fuel and/ or price of power purchase according to the FPPPA formula approved by the Commission from time to time;
- d) Variation in the number or mix of consumers or quantities of electricity supplied to consumers:
- e) Provided that where there is more than one Distribution Licensee within the area of supply of the applicant, any variation in the number or mix of consumers or in the quantities of electricity supplied to consumers within the area served by two or more such Distribution Licensees, on account of migration from one Distribution Licensee to another, shall be attributable to controllable factors: Provided further that if any consumer or category of consumers within the area of supply of the applicant is eligible for open access under sub-section (3) of Section 42 of the Act, then any variation in the number or mix of such consumers or quantities of electricity supplied to such eligible consumers shall be attributable to controllable factors;
- f) Transmission loss
- g) Variation in market interest rates;
- h) Taxes and Statutory levies;
- i) Taxes on Income:

Provided that where the applicant or any interested or affected party believes, for any variable not specified above, that there is a material variation or expected variation in performance for any financial year on account of uncontrollable factors, such applicant or interested or affected party may apply to the Commission for inclusion of such variable at the Commissions discretion, under this Regulation for such financial year.

- 12.2 Some illustrative variations or expected variations in the performance of the applicant, which may be attributed by the Commission to controllable factors include, but are not limited to, the following:
- a. Variations in capitalisation on account of time and/or cost overruns/ inefficiencies in the implementation of a capital expenditure project not

attributable to an approved change in scope of such project, change in statutory levies or force majeure events;

- b. Variation in Interest and Finance Charges, Return on Equity, and Depreciation on account of variation in capitalisation, as specified in clause (a) above;
- c. Variations in technical and commercial losses of Distribution Licensee;
- d. Variations in performance parameters;
- e. Variations in working capital requirements;
- f. Failure to meet the standards specified in the Meghalaya State Electricity Regulatory Commission (Standard of Performance) Regulations, 2012, except where exempted in accordance with those Regulations;
- g. Variation in operation & maintenance expenses;
- h. Variation in Wires Availability.

13 Mechanism for pass through of gains or losses on account of uncontrollable factors

- 13.1 The approved aggregate gain or loss to the Generating Company or Transmission Licensee or Distribution Licensee on account of uncontrollable factors shall be passed through as an adjustment in the tariff of the Generating Company or Transmission Licensee or Distribution Licensee over such period as may be specified in the Order of the Commission passed under these Regulations.
- 13.2 The Generating Company or Transmission Licensee or Distribution Licensee shall submit such details of the variation between expenses incurred and revenue earned and the figures approved by the Commission, in the prescribed format to the Commission, along with the detailed computations and supporting documents as may be required for verification by the Commission.
- 13.3 Nothing contained in this Regulation 12 shall apply in respect of any gain or loss arising out of variations in the price of fuel and power purchase, which shall be dealt with as specified by the Commission from time to time.

14 Mechanism for sharing of gains or losses on account of controllable factors

14.1 The approved aggregate gain to the Generating Company or Transmission Licensee or Distribution Licensee on account of controllable factors shall be dealt with in the following manner:

- One-third of the amount of such gain shall be passed on as a rebate in tariffs over such period as may be stipulated in the Order of the Commission;
- The balance amount, which will amount to two-thirds of such gain, may be utilized at the discretion of the Generating Company or Transmission Licensee or Distribution Licensee.

14.2 The approved aggregate loss to the Generating Company or Transmission Licensee or Distribution Licensee on account of controllable factors shall be dealt with in the following manner:

- One-third of the amount of such loss, if Commission is satisfied, may be passed on as an additional charge in tariffs over such period as may be stipulated in the Order of the Commission; and
- The balance amount of loss shall be absorbed by the Generating Company or Transmission Licensee or Distribution Licensee.

15 Determination of Tariff

15.1 The proceedings to be held by the Commission for determination of tariff shall be in accordance with the MSERC (Conduct of Business) Regulations, 2007, as amended from time to time.

15.2 Notwithstanding anything contained in these Regulations, the Commission shall at all times have the authority, either on *suo motu* basis or on a Petition filed by any interested or affected Party, to determine the tariff, including terms and conditions thereof, of any Generating Company or Transmission Licensee or Distribution Licensee:

15.3 Provided that such determination of tariff may be pursuant to an agreement or arrangement or otherwise whether or not previously approved by the

Commission and entered into at any time before or after the applicability of these Regulations.

15.4 Notwithstanding anything contained in these Regulations, the Commission shall adopt the tariff, if such tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Government:

15.5 Provided that the applicant shall provide such information as the Commission may satisfy itself that the guidelines issued by the Central Government have been duly followed.

16 Determination of Generation Tariff

16.1 The Commission shall determine the tariff for generation of electricity, in accordance with the terms and conditions contained in Chapter-4 of these Regulations.

16.2 Existing generating station:

- i. Where the Commission has, at any time prior to the date of effectiveness of these Regulations, approved a power purchase agreement or arrangement between a Generating Company and a Distribution Licensee or has adopted the tariff contained therein for supply of electricity from an existing generating Unit/Station, the tariff for supply of electricity by the Generating Company to the Distribution Licensee shall be in accordance with tariff mentioned in such power purchase agreement or arrangement for such period as may be so approved or adopted by the Commission.
- ii. Whereas on date of effectiveness of these regulation the power purchase agreement or arrangement between the generating company and a distribution licensee for supply of electricity from an existing generating station has not been approved by the Commission all the tariff contained therein has not been adopted by the Commission or where there is no power purchase agreement or arrangement the supply of electricity to such distribution license after the date of effectiveness of these regulation shall be in accordance of a power purchase agreement approved by the Commission.

- iii. Provided that an application for approval for such power purchase agreement or arrangement shall be made by the distribution licensee to the Commission within a period of three months from the date of notification of these regulations.
- iv. Provided further that the supply of electricity shall be allowed to continue under present agreement or arrangement as the case may be until such time as the Commission approves of such power purchase agreement and shall be discontinued forth with if Commission rejects for reasons recorded in writing such power purchase agreements or arrangements.

16.3 New generating stations:

- i. The tariff for the supply of electricity by a Generating Company to a Distribution Licensee from a new generating Unit/Station shall be in accordance with tariff as per power purchase agreement approved by the Commission.

16.4 Own generating stations:

- i. Where the Distribution Licensee also undertakes the business of generation of electricity, the transfer price at which electricity is supplied by the Generation Business of the Distribution Licensee to his Retail Supply Business shall be determined by the Commission.
- ii. The Distribution Licensee shall maintain separate records for the Generation Business and shall maintain an Allocation Statement so as to enable the Commission to clearly identify the direct and indirect costs relating to such business and return on equity accruing to such business:

Provided that once the Commission notifies the Regulations for submission of Regulatory Accounts, the applications for tariff

determination and truing up shall be based on the Regulatory Accounts.

- iii. The Distribution Licensee shall submit, along with the separate application for determination of tariff for retail supply of electricity, the information required under Chapter-4 of these Regulations relating to the Generation Business.

17 Determination of Tariff for Transmission, Distribution Business

17.1 The Commission shall determine the tariff for Transmission Business, Distribution Business based on an application made by the Licensee in accordance with the procedure contained in these Regulations.

17.2 The Commission shall determine the tariff for:

- a) Transmission of electricity, in accordance with the terms and conditions contained in **Chapter-5** of these Regulations;
- b) Distribution Business, in accordance with the terms and conditions contained in **Chapter-6** of these Regulations;

18 Filing Procedure

18.1 The applicant shall file the petition for approval of truing up of previous year and tariff for ensuing financial year on or before 30th November each year provided that MYT petition for FY 2015-16 to 2017-18 shall be filed along with the business plan. The applicant shall provide, based on the Business Plan, as part of his application to the Commission, in such formats as may be prescribed by the Commission from time to time, full details of his calculation of the Aggregate Revenue Requirement and expected revenue from tariff and charges, and thereafter, he shall furnish such further information or particulars or documents as the Commission or the Secretary or any Officer designated for the purpose by the Commission may reasonably require to assess such calculation:

18.2 Provided that the information should be based on audited accounts and in case audited accounts of previous year is not available audited accounts for the year immediately preceding the previous year should be filed along with the unaudited accounts for the previous year.

18.3 Provided that the application shall be accompanied where relevant, by a detailed tariff revision proposal showing category-wise tariff and how such revision would meet the gap, if any, in Aggregate Revenue Requirement for the respective year of the Control Period:

18.4 Provided further that the Commission may specify additional/alternative formats for details to be submitted by the applicant, from time to time, as it may reasonably require for assessing the Aggregate Revenue Requirement and for determining the tariff.

Provided that a Commission may seek any further information, particular and documents including audited accounts to assess the petitioner's calculation.

Provided that in case of non submission of tariff petition within the time allowed by the Commission the Commission may consider the matter suo moto.

18.5 Upon receipt of a complete application accompanied by all requisite information, particulars and documents in compliance with all the requirements specified in these Regulations, the application shall be deemed to be received and the Commission or the Secretary or the designated Officer shall intimate to the applicant that the application is registered and ready for publication.

Provided that the Commission may reject the petition if such petition is not in accordance with the provision of the act, rules and regulations made there under in accordance with conduct of business regulation.

18.6 If the applicant fails to respond to any suggestion / objection within the given time, it will be construed that the applicant has no response / comments to offer and the Commission shall proceed to decide the matter in a manner as it deems fit and fair.

18.7 The Commission may consider granting extra time to the applicant to file their response / comments, provided the reasons for such extension of time are found reasonable.

19 Hearing on the application

19.1 The Commission shall initiate a proceeding on the revenue calculations and tariff proposals given by the applicant and may hold public hearing(s) to decide on such revenue calculations and tariff proposals.

19.2 The procedure for public hearing of the tariff application shall be in the manner as specified by the Commission.

20 Order of the Commission

20.1 Within a period of 120 days from the date of acceptance of the tariff application and after considering the proceedings of the hearing(s) as well as suggestions / objections received in response to the public notice, the Commission shall issue the tariff order, communicating its decisions on the aggregate revenue requirement, revenue calculations and Tariff proposals to the generating company or the licensee as the case may be.

20.2 Tariff will come into force with effect from the date as specified in the Tariff order.

20.3 The Commission shall forward within 7 days of passing the order, a copy of the order to the State Government, the Central Electricity Authority, the concerned generating company or licensee and other authorities, as may be necessary.

20.4 The Commission shall post the tariff order in its website.

20.5 The tariff order shall, unless amended or revised, continue to be in force for such period as may be specified in the Tariff order.

21 Publication of Tariff Order

21.1 The generating company or the licensee shall publish the tariff or tariff approved by the Commission in two newspapers having wide circulation in the area of supply as the Commission may direct.

21.2 Copies of the Company's tariff notification shall be made available by the generating company or licensee to any person on payment of an amount fixed by the Commission.

22 Review of Tariff Order

22.1 All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:

a) the review petition is filed within sixty days for the date of the tariff order, and / or

b) there is an error apparent on the face of the record.

22.2 On being satisfied that there is a need to review the tariff of any generating company or the licensee, the Commission may on its own initiate process of review of the tariff of any generating company or the licensee. The Commission may also, in its own motion review any tariff order to correct any clerical error or any error apparent of the face of the record.

23 Amendment to Tariff

23.1 No tariff or part of any tariff may be ordinarily amended, more frequently than once in any financial year, except FPPPA based on FPPPA formulae approved by the Commission from time to time. Provided that the consequential orders, which the Commission may issue to give effect to the subsidy by the State Government shall not be constructed as amendment of the tariff notified.

24 Adherence to Tariff Order

- 24.1 If any Generating Company or Transmission Licensee or Distribution Licensee recovers a price or charge exceeding the tariff determined under Section 62 of the Act and in accordance with these Regulations, the excess amount shall be payable to the person who has paid such price or charge, along with interest equivalent to the Bank Rate of the Reserve Bank of India without prejudice to any other liability incurred by such Generating
- 24.2 Company or Transmission Licensee or Distribution Licensee.
- 24.3 The Transmission Licensee or Distribution Licensee shall submit periodic returns as maybe required by the Commission, containing operational and cost data to enable the Commission to monitor the implementation of its Order.

25 Subsidy Mechanism.

- 25.1 With effect from the first day of April 2015, if the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay in advance the amount to compensate the Distribution Licensee/person affected by the grant of subsidy, as a condition for the Licensee or any other person concerned to implement the subsidy provided for by the State Government, in the manner specified in these Regulations:

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in these Regulations and the tariff fixed by the Commission shall be applicable from the date of issue of orders by the Commission in this regard.

26 Annual determination of tariff

- 26.1 The Commission shall determine the tariff of a Generating Company or Transmission Licensee or Distribution Licensee covered under a Multi-Year Tariff framework for each financial year during the Control Period, at the commencement of such financial year, having regard to the following:
- 26.2 The approved forecast of Aggregate Revenue Requirement including the incentive available for the Generating Company or Transmission Licensee or Distribution Licensee and expected revenue from tariff and charges for such financial year, including modifications approved at the time of mid-term review, if any; and
- 26.3 Approved gains and losses to be passed through in tariffs, following the Truing Up of previous year.

CHAPTER 3

FINANCIAL PRINCIPLE

27 Debt-Equity Ratio

- 27.1 For a project declared under commercial operation on or after 1.4.2015, if the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan;

Provided that where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff.

Provided further that equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.

Provided any grant obtained for execution of the project shall not be considered as a part of capital structure for the purpose of debt-equity ratio.

Explanation:- The premium, if any, raised by the generating company or the transmission licensee or the distribution licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting the capital expenditure.

- 27.2 In case of the generating station and the transmission system declared under commercial operation prior to 1.4.2015, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2015 shall be considered.

27.3 Any expenditure incurred or projected to be incurred on or after 1.4.2015 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernization expenditure for life extension shall be serviced in the manner specified in this regulations.

28 Capital Cost and capital structure

28.1 Capital cost for a project shall include:

- a) The actual expenditure on the date of commercial operation in case of new investments shall be subject to prudence check by the Commission.
- b) Scrutiny of cost estimates by the Commission shall be limited to reasonableness of the capital cost, financial plan and interest during construction period, use of efficient technology and in such other matters for determination of tariff.
- c) In case of any abnormal delay in execution of the project causing cost and time overrun attributable due to failure of the utility/licensee the Commission may not approve the full capitalization of the interest and overhead expenditures.
- d) Where the power purchase agreement or bulk power transmission agreement provides for a ceiling of capital cost, the capital cost to be considered shall not exceed such ceiling.

28.2 The capital cost may include capitalized initial spares:

- a) upto 2.5% of original capital cost in case of coal based/lignite fired generating stations;
- b) upto 4.0% of original capital cost in case of gas turbine/combined cycle generating stations;
- c) upto 1.5% of original capital cost in case of hydro-generating stations; and
- d) upto 1.5% of original capital cost in case of Transmission Licensee and Distribution Licensee.

28.3 The capital cost admitted by the Commission after prudence check shall form the basis for determination of tariff:

Provided that the assets forming part of the project but not put to use or not in use, shall be taken out of the capital cost. Provided that the project cost already admitted by the Commission for the purpose of tariff determination shall be considered as original project cost.

28.4 The approved Capital Cost shall be considered for determination of tariff and if sufficient justification is provided for any escalation in the Capital Cost, the same may be considered by the Commission subject to the prudence check.

28.5 The Commission shall issue guidelines for verifying the capital cost of hydro projects by an independent agency or expert and in such case the capital cost as vetted by such agency may be considered by the Commission after prudence check and reasonability of the expenses while determining the tariff. Scrutiny of projects not controlled by State or Central Government may be done as per State and Central Commission's Regulations, Tariff policy and notification issued by the Government of India in this regard.

28.6 In case the actual capital cost is lower than the approved capital cost, then the actual capital cost will be considered for determination of tariff of the Generating Company or Transmission Licensee or Distribution Licensee.

28.7 The actual capital expenditure on COD for the original scope of work based on audited accounts of the Company limited to original cost may be considered subject to the prudence check by the Commission.

28.8 Impact of revaluation of assets shall be permitted during the Control Period, provided it does not result in increase in tariff of Generating Company, Transmission Licensee and Distribution Licensee. Any benefit, as may be allowed by the Commission, from such revaluation shall be passed on to persons sharing the capacity charge in case of a Generating Company and to long-term intra-State open access customers of transmission licensee or distribution licensee, or retail supply consumers in case of distribution licensees, at the time of annual truing up.

28.9 Any expenditure on replacement, renovation and modernization or extension of life of old fixed assets, as applicable to Generating Company, Transmission Licensee and Distribution Licensee, shall be considered after writing off the net value of such replaced assets from the original capital cost and will be calculated as follows:

Net Value of Replaced Assets = OCFA – AD – CC;

Where;

OCFA: Original Capital Cost of Replaced Assets;

AD: Accumulated depreciation pertaining to the Replaced Assets;

CC: Total Consumer Contribution pertaining to the Replaced Assets.

28.10 The following shall be excluded or removed from the capital cost of the existing and new project:

(a) The assets forming part of the project, but not in use;

(b) Decapitalisation of Asset;

(c) In case of hydro generating station any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State government by following a two stage transparent process of bidding; and

(d) the proportionate cost of land which is being used for generating power from generating station based on renewable energy:

Provided that any grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment shall be excluded from the Capital Cost for the purpose of computation of interest on loan, return on equity and depreciation;

29 Additional Capitalisation

29.1 The following capital expenditure, actually incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to the prudence check:

- a) Due to Un-discharged liabilities within the original scope of work;
- b) On works within the original scope of work, deferred for execution;
- c) To meet award of arbitration and compliance of final and unappealable order or decree of a court arising out of original scope of works;
- d) On account of change in law;
- e) On procurement of initial spares included in the original project costs subject to the ceiling norm specified;
- f) Any additional works/services, which have become necessary for efficient and successful operation of a generating station or a transmission system or a distribution system but not included in the original capital cost:

Provided that original scope of work along with estimates of expenditure shall be submitted as a part of Business Plan: Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of the generating Unit/Station or transmission system or distribution system. Provided further that the assets forming part of the project but not put to use, shall not be considered.

29.2 Impact of additional capitalization on tariff, as the case may be, shall be considered during Truing Up of each financial year of the Control Period.

30 Consumer contribution, Deposit Work and Grant

30.1 The following nature of work carried out by the Transmission Licensee and Distribution Licensee shall be classified under this category:

- a) Works after obtaining a part or all of the funds from the users in the context of deposit works;
- b) Capital works undertaken by utilizing grants received from the State and Central Governments, including funds under RGGVY, APDRP, etc;
- c) Any other grant of similar nature and such amount received without any obligation to return the same and with no interest costs attached to such subvention.

31 Return on Equity

31.1 Return on equity shall be computed on the equity base determined in accordance with regulation 27 and shall not exceed 14%.

Provided that in case of generation & transmission projects commissioned after notification of these regulations, an additional return of 0.5 % shall be allowed if such projects are completed within the time line as specified in CERC Tariff Regulations.

Provided that in case of generation & transmission projects commissioned after the notification of these regulations an additional return of 1.5 % shall be allowed if such projects are completed within the original sanctioned project cost without any time and cost overrun whatsoever.

Provided that equity invested in a foreign currency may be allowed a return up to the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing.

- The premium received while issuing share capital shall be treated as a part of equity provided the same is utilized for meeting capital expenditure.
- Internal resources created out of free reserves and utilized for meeting capital expenditure shall also be treated as a part of equity.

32 Interest and finance charges on loan capital

- 32.1 Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate specified therein.

Provided that the outstanding loan capital shall be adjusted to make it consistent with the loan amount determined in accordance with regulation 27.

- 32.2 The interest and finance charges attributable to capital work in progress shall be excluded.

Provided that neither penal interest nor over due interest shall be allowed for computation of tariff.

- 32.3 The Generating Company or the Transmission Licensee or the Distribution Licensee, as the case may be, shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the Generating Company or the Transmission Licensee or the Distribution Licensee, as the case may be, in the ratio of 50:50.

- 32.4 In case any moratorium period is availed of in any loan by the generating company, depreciation provided for in the tariff during the years of moratorium shall be treated, as repayment during those years and interest on loan capital shall be calculated accordingly.

33 Depreciation

33.1 For the purpose of tariff determination, depreciation shall be computed in the following manner:

a) The asset value for the purpose of depreciation shall be the historical cost of the assets as approved by the Commission where:

The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited. Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.

b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.

c) The salvage value of the assets shall be considered at 10% and depreciation shall be allowed upto maximum of 90 % of the capital cost of the asset.

d) Depreciation shall be calculated annually as per straight-line method at the rates specified in CERC (Terms and Conditions of Tariff) Regulations, 2009 as may be amended from time to time.

Provided that land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the historical cost of the asset.

e) Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.

f) The remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of commercial operation shall be spread over the balance useful life of the asset.

34 Interest on Working Capital

34.1 Generation:

- (i) In case of coal based/oil-based/lignite-fired generating stations, working capital shall cover:
- Cost of coal or lignite for one (1) month for pit-head generating stations and one and a half (1½) months for non-pit-head generating stations, corresponding to target availability; plus
 - Cost of oil for one (1) month corresponding to target availability; plus
 - Cost of secondary fuel oil for two (2) months corresponding to target availability; plus
 - Operation and Maintenance expenses for one (1) month; plus
 - Maintenance spares at one (1) per cent of the historical cost escalated at 6% from the date of commercial operation; plus
 - Receivables for sale of electricity equivalent to two (2) month of the sum of annual fixed charges and energy charges calculated on target availability:

Provided that in case of own generating stations, no amount shall be allowed towards receivables, to the extent of supply of power by the Generation Business to the Retail Supply Business, in the computation of working capital in accordance with these Regulations.

- (ii) In case of Gas Turbine/Combined Cycle generating stations, working capital shall cover:
- Fuel cost for one (1) month corresponding to target availability factor, duly taking into account the mode of operation of the generating station on gas fuel and /or liquid fuel; plus
 - Liquid fuel stock for fifteen (15) days corresponding to target availability; plus
 - Operation and maintenance expenses for one (1) month; plus
 - Maintenance spares at one (1) per cent of the historical cost escalated at 6% from the date of commercial operation; plus
 - Receivables equivalent to two (2) month of capacity charge and energy charge for sale of electricity equivalent calculated on

normative plant availability factor, duly taking into account mode of operation of the generating station on gas fuel and liquid fuel:

Provided that in case of own generating stations, no amount shall be allowed towards receivables, to the extent of supply of power by the Generation Business to the Retail Supply Business, in the computation of working capital in accordance with these Regulations.

(iii) In case of hydro power generating stations, working capital shall cover:

- Operation and maintenance expenses for one (1) month;
- Maintenance spares at the rate of 15% of O & M expenses escalated at 6% from the date of commercial operation; and
- Receivables equivalent to two (2) month of fixed cost:

Provided that in case of own generating stations, no amount shall be allowed towards receivables, to the extent of supply of power by the Generation Business to the Retail Supply Business, in the computation of working capital in accordance with these Regulations.

Interest on working capital shall be allowed at a rate equal to the State Bank Advance Rate (SBAR) as on 1st April of the financial year in which the Petition is filed.

34.2 Transmission:

(i) The Transmission Licensee shall be allowed interest on the estimated level of working capital for the financial year, computed as follows:

- Operation and maintenance expenses for one month; plus
- Maintenance spares at one (1) per cent of the historical cost escalated at 6% from the date of commercial operation; plus
- Receivables equivalent to two (2) month of transmission charges calculated on target availability level;

Interest on working capital shall be allowed at a rate equal to the State Bank Advance Rate (SBAR) as on 1st April of the financial year in which the Petition is filed.

34.3 Distribution Business

(i) The Distribution Licensee shall be allowed interest on the estimated level of working capital for the Distribution Business for the financial year, computed as follows:

- Operation and maintenance expenses for one month; plus
- Maintenance spares at one (1) per cent of the historical cost escalated at 6% from the date of commercial operation; plus
- Receivables equivalent to two (2) months of the expected revenue from charges for use of Distribution at the prevailing tariffs; minus

Interest shall be allowed at a rate equal to the State Bank Advance Rate (SBAR) as on 1st April of the financial year in which the Petition is filed.

35 Tax on income

35.1 The Commission in its MYT Order shall provisionally approve Income Tax payable for each year of the Control Period, if any, based on the actual income tax paid as per latest Audited Accounts available for the applicant, subject to prudence check.

35.2 Variation between Income Tax actually paid and approved, if any, on the income stream of the regulated business of Generating Companies, Transmission Licensees and Distribution Licensees shall be reimbursed to/recovered from the Generating Companies, Transmission Licensees and Distribution Licensees, based on the documentary evidence submitted at the time of truing up of each year of the Control Period, subject to prudence check.

35.3 Under-recovery or over-recovery of any amount from the beneficiaries or the consumers on account of such tax having been passed on to them shall be adjusted every year on the basis of income-tax assessment under the Income-Tax Act, 1961, as certified by the statutory auditors. The Generating Company, or the Transmission Licensee or Distribution Licensee, as the case may be, may include this variation in its truing up Petition:

35.4 Provided that tax on any income stream other than the core business shall not be a pass through component in tariff and tax on such other income shall be borne by the Generating Company or Transmission Licensee or the Distribution Licensee, as the case may be.

36 Rebate

36.1 For payment of bills of generation tariff or transmission charges through Letter of Credit or otherwise, within 7 days of presentation of bills, by the Generating Company or the Transmission Licensee, as the case may be, a rebate of 2% on billed amount, excluding the taxes, cess, duties, etc., shall be allowed. Where payments are made subsequently through opening of Letter of Credit or otherwise, but within a period of one month of presentation of bills by the Generating Company or the Transmission Licensee, as the case may be, a rebate of 1% on billed amount, excluding the taxes, cess, duties, etc., shall be allowed.

37 Delayed Payment Surcharge

37.1 In case the payment of bills of generation tariff or transmission charges by the beneficiary or beneficiaries is delayed beyond a period of 30 days from the date of billing, late payment surcharge at the rate of 1.25% per month on billed amount shall be levied for the period of delay by the Generating Company or the Transmission Licensee, as the case may be.

38 Foreign Exchange Rate Variation

38.1 The Generating Company or the Transmission Licensee or the Distribution Licensee, as the case may be, may hedge foreign exchange exposure in respect of the interest on foreign currency loan and repayment of foreign loan acquired for the generating station or the transmission system or distribution system, in part or full, at the discretion of the Generating Company or the Transmission Licensee or the Distribution Licensee.

38.2 Every Generating Company and Transmission Licensee and Distribution Licensee shall recover the cost of hedging of foreign exchange rate variation corresponding to the normative foreign debt, in the relevant year on year-to-year basis as expense in the period in which it arises and extra rupee liability corresponding to such foreign exchange rate variation shall not be allowed against the hedged foreign debt.

38.3 To the extent the Generating Company or the Transmission Licensee or the Distribution Licensee is not able to hedge the foreign exchange exposure, the extra rupee liability towards interest payment and loan repayment corresponding to the normative foreign currency loan in the relevant year shall be permissible provided it is not attributable to the Generating Company or the Transmission Licensee or the Distribution Licensee or its suppliers or contractors.

39 Recovery of cost of hedging Foreign Exchange Rate Variation

39.1 Every Generating Company and the Transmission Licensee and the Distribution Licensee shall recover the cost of hedging and foreign exchange rate variation on year-to-year basis as income or expense in the period in which it arises.

CHAPTER 4 GENERATION

40 Applicability

40.1 The Regulations specified in this Chapter shall apply for determining the tariff for supply of electricity to a Distribution Licensee from conventional sources of generation and hydro generation stations other than renewable energy sources:

Provided that determination of tariff for supply of electricity to a Distribution Licensee from Renewable Energy sources of generation shall be in accordance with terms and conditions as stipulated in the relevant Regulations/Orders of the Commission.

40.2 The Commission shall be guided by the Regulations contained in this Chapter in determining the tariff for supply of electricity by a Generating Company to a Distribution Licensee in the following cases:

- (a) where such tariff is pursuant to a power purchase agreement or arrangement entered into subsequent to the date of effectiveness of these Regulations; or
- (b) where such tariff is pursuant to a power purchase agreement or arrangement entered into prior to the date of effectiveness of these Regulations and either the Commission has not previously approved such agreement/arrangement or the agreement/ arrangement envisages that the tariff shall be based on the MSERC Tariff Regulations; or
- (c) where the Distribution Licensee is engaged in the business of generation of electricity, in determining the transfer price at which electricity is supplied by the Generation Business of the Distribution Licensee to its Retail Supply Business:

Provided that the Commission may deviate from the norms contained in this Chapter or specify alternative norms for particular cases, where it so deems appropriate, having regard to the circumstances of the case: Provided further that the reasons for such deviation(s) shall be recorded in writing.

40.3 Notwithstanding anything contained in this Chapter 4, the Commission shall adopt the tariff if such tariff has been determined through a transparent process of bidding in accordance with the guidelines issued by the Central Government.

41 Petition for determination of generation tariff

41.1 A Generating Company is required to file a Petition for determination of tariff for supply of electricity to Distribution Licensees in accordance with the provisions of Chapter 2 of these Regulations.

41.2 Tariff in respect of a Generating Station under these Regulations may be determined Stage-wise, Unit-wise or for the whole Generating Station. The terms and conditions for determination of tariff for Generating Stations specified in this Part shall apply in like manner to Stages or Units, as the case may be, as to Generating Stations.

41.3 Where the tariff is being determined for a Stage or Unit of a Generating Station, the Generating Company shall adopt a reasonable basis for allocation of capital cost relating to common facilities and allocation of joint and common costs across all Stages or Units, as the case may be:

41.4 Provided that the Generating Company shall maintain an Allocation Statement providing the basis for allocation of such costs, which shall be duly audited and certified by the statutory auditors, and submit such audited and certified statement to the Commission along with the application for determination of tariff.

- 41.5 A Generating Company may file a Petition for determination of provisional tariff in advance of the anticipated Date of Commercial Operation of the Unit or Stage or Generating Station as a whole, as the case may be, based on the capital expenditure actually incurred up to the date of making the Petition or a date prior to making of the Petition, duly audited and certified by the statutory auditors and the provisional tariff shall be charged from the date of commercial operation of such Unit or Stage or Generating Station, as the case may be.
- 41.6 A Generating Company shall file a fresh Petition in accordance with these Regulations, for determination of final tariff based on actual capital expenditure incurred up to the date of commercial operation of the Generating Station duly certified by the statutory auditors based on Annual Audited Accounts.
- 41.7 Any difference in provisional tariff and the final tariff determined by the Commission and not attributable to the Generating Company may be adjusted at the time of determination of final tariff for the following year as directed by the Commission.
- 41.8 In relation to multi-purpose hydroelectric Projects, with irrigation, flood control and power components, the capital cost chargeable to the power component of the Project only shall be considered for determination of tariff.

42 SLDC and Connectivity Charges

- 42.1 SLDC and Connectivity charges are determined by the Commission and payable by the generating companies shall be considered as expenses.
- 42.2 SLDC and Transmission charges paid for the energy sold outside the state shall not be considered as expenses for determining generation tariff.

43 Other Income

43.1 Income other than income from sale of energy and UI charges gained (after introduction of intra state ABT) shall be grouped as other income. UI penalties shall not be netted off from other income. The UI penalties shall be borne by the generating company.

44 Sale of Infirm Power

44.1 Any revenue other than the recovery of fuel cost earned by the generating company from sale of infirm power shall be taken as reduction in capital cost and shall not be treated as revenue.

45 Unscheduled Interchange Charges

45.1 Variation between actual generation or actual drawal and scheduled generation or scheduled drawal shall be accounted for through Unscheduled Interchange (UI) Charges. UI for a generating station shall be equal to its actual generation minus its scheduled generation. UI shall be worked out for each 15 minutes time block. Charges for all UI transactions shall be based on average frequency of the time block and rates as specified by CERC from time to time.

45.2 UI charges for intra-state transactions will arise after intra-state ABT is notified by the Commission and becomes effective.

A: THERMAL POWER GENERATING STATION**46 Renovation and Modernization**

- 46.1 The generating company for meeting the expenditure on renovation and modernization (R&M) for the purpose of extension of life beyond the useful life of the generating station or a unit thereof, shall make an application before the Commission for approval of the proposal with a detailed project report giving complete scope, justification, cost-benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost (including foreign exchange component, if any) record of consultation with beneficiaries and any other information considered to be relevant by the generating company.
- 46.2 In case of a coal based / lignite based fired thermal generating station, the generating company may, at its discretion, avail of a 'special allowance' in accordance with norms specified in clause(46.5), as a compensation for meeting the requirement of expenses including renovation and modernization beyond the useful life of the generation station or a unit thereof. In such an event, revision of capital cost shall not be considered and the applicable operational norms shall not be relaxed but the special allowance shall be included in the annual fixed cost.

Note:

The above option shall not be available for a generating station or a unit for which renovation and modernization has been undertaken and the expenditure has been admitted by the Commission before commencement of these regulations or for a generating station or unit which is in a depleted condition or operating under relaxed operational and performance norms.

- 46.3 Where generating company makes an application for approval of its proposal for renovation and modernization the Commission shall give its approval after due consideration of reasonableness of cost estimates, financing plan, schedule of completion, interest during construction, use of efficient technology, cost-benefit analysis and such other factors which the Commission may consider relevant.
- 46.4 Any expenditure incurred or projected to be incurred and admitted by the Commission after prudent check, based on estimates for renovation and modernization already recovered from original project cost, shall form the basis for determination of tariff.
- 46.5 A generating company, opting for sub-regulation (46.2) above, for a coal based / lignite fired thermal station shall be allowed special allowance @ Rs. 5 lakhs / MW / year in 2014-15 and thereafter escalated @ 5.72% every year during the tariff period, unit wise from the next financial year from the respective date of completion of useful life with reference to the date of commercial operation of the respective unit of generating station:

47 Components of Tariff

- 47.1 Tariff for sale of electricity from a thermal power generating station shall comprise of two parts, namely, the recovery of annual capacity (fixed) charges and energy (variable) charges to be worked out in the manner provided hereinafter.
- i. The fixed cost of a generating station eligible for recovery through annual capacity charges shall consist of:
 - a) Return on equity as may be allowed
 - b) Interest on Loan Capital;
 - c) Operation and maintenance expenses;
 - d) Interest on Working Capital;
 - e) Depreciation as may be allowed.
 - f) Taxes on Income
 - g) Cost of secondary fuel oil (for coal based and lignite fired generating stations only)

- ii. The energy charges shall cover primary fuel charges
- iii. The annual capacity charges recoverable shall be worked out by deducting other income from the total annual expenses.

48 Operation & Maintenance Expenses

48.1 Operation and Maintenance Expenses (O&M Expenses) shall mean the total of all expenditure under the following heads:-

- a) Employee Cost;
- b) Repairs and Maintenance; and
- c) Administration and General Expenses.

48.2 The generating company shall prepare a budget for Operation and Maintenance Expenses indicating for each head of account actual expenditure of the last year, estimate for the current year and projection for the next year and submit it to the Commission along with the tariff petition.

48.3 The generating company shall provide adequate explanations for the basis of allocation of Operation and Maintenance expenditure among the generating stations.

48.4 The Commission shall verify the budget estimates and projections and allow the amount depending on its views about the reasonableness of the projections.

48.5 In verifying the budget for operation and maintenance the generating company may be guided by the norms as laid down by the Commission or as per CERC Tariff Regulations, 2009 and subsequent amendments from time to time.

49 Expenses on secondary fuel oil consumption for coal-based, lignite-fired generating station

49.1 Expenses on secondary fuel oil in Rupees shall be computed corresponding to normative secondary fuel oil consumption (SFC) specified in clause (3) of Regulation 51, in accordance with the following formula:

$$\text{SFC} \times \text{LPSFi} \times \text{NAPAF} \times 24 \times \text{NDY} \times \text{IC} \times 10$$

Where,

SFC – Normative Specific Fuel Oil consumption in ml/kWh

LPSFi – Weighted Average Landed Price of Secondary Fuel in Rs./ml considered initially

NAPAF – Normative Annual Plant Availability Factor in percentage

NDY – Number of days in a year

IC – Installed Capacity in MW.

49.2 Initially, the landed cost incurred by the generating company on secondary fuel oil shall be taken based on actuals of the weighted average price of the three preceding months and in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the year.

49.3 The secondary fuel oil expenses shall be subject to fuel price adjustment at the end of the each year of tariff period as per following formula:

$$\text{SFC} \times \text{NAPAF} \times 24 \times \text{NDY} \times \text{IC} \times 10 \times (\text{LPSFy} - \text{LPSFi})$$

Where,

LPSFy = The weighted average landed price of secondary fuel oil for the year in Rs. /ml

50 Computation and payment of capacity charge and energy charge for thermal generating stations

50.1 Capacity Charge:

- (1) The fixed cost of a thermal generating station shall be computed on annual basis, based on norms specified under these regulations, and recovered on monthly basis under capacity charge.

The total capacity charge payable for a generating station shall be shared by its beneficiaries as per their respective percentage share / allocation in the capacity of the generating station.

- (2) The capacity charge (inclusive of incentive) payable to a thermal generating station for a calendar month shall be calculated in accordance with the following formulae :

- (a) Generating stations in commercial operation for less than ten (10) years on 1st April of the financial year :

$AFC \times (NDM / NDY) \times (0.5 + 0.5 \times PAFM / NAPAF)$ (in Rupees);

Provided that in case the plant availability factor achieved during a financial year (PAFY) is less than 70%, the total capacity charge for the year shall be restricted to

$AFC \times (0.5 + 35 / NAPAF) \times (PAFY / 70)$ (in Rupees).

- (b) For generating stations in commercial operation for ten (10) years or more on 1st April of the year:

$AFC \times (NDM / NDY) \times (PAFM / NAPAF)$ (in Rupees).

Where,

AFC = Annual fixed cost specified for the year, in Rupees.

NAPAF = Normative annual plant availability factor in percentage

NDM = Number of days in the month

NDY = Number of days in the year

PAFM = Plant availability factor achieved during the month, in percent:

PAFY = Plant availability factor achieved during the year, in percent

- (3) The PAFM and PAFY shall be computed in accordance with the following formula:

$$\text{PAFM or PAFY} = 10000 \times \sum_{i=1}^N \text{DCi} / \{ N \times \text{IC} \times (100 - \text{AUX}) \} \%$$

Where,

AUX = Normative auxiliary energy consumption in percentage.

DCi = Average declared capacity (in ex-bus MW)

IC = Installed Capacity (in MW) of the generating station

N = Number of days during the period i.e. the month or the year as the case may be.

Note : DCi and IC shall exclude the capacity of generating units not declared under commercial operation. In case of a change in IC during the concerned period, its average value shall be taken.

50.2 Energy Charge:

- (1) The energy charge shall cover the primary fuel cost and shall be payable by every beneficiary for the total energy scheduled to be supplied to such beneficiary during the calendar month on ex-power plant basis, at the energy charge rate of the month (with fuel price adjustment). Total Energy charge payable to the generating company for a month shall be:

$$= (\text{Energy charge rate in Rs./kWh}) \times \{ \text{Scheduled energy (ex-bus) for the month in kWh.} \}$$

- (2) Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following formulae:

- (a) For coal based and lignite fired stations

$$\text{ECR} = \{ (\text{GHR} - \text{SFC} \times \text{CVSF}) \times \text{LPPF} / \text{CVPF} + \text{LC} \times \text{LPL} \} \times 100 / (100 - \text{AUX})$$

(b) For gas and liquid fuel based stations

$$\text{ECR} = \text{GHR} \times \text{LPPF} \times 100 / \{ \text{CVPF} \times (100 - \text{AUX}) \}$$

Where,

AUX = Normative auxiliary energy consumption in percentage.

CVPF= Gross calorific value of primary fuel as fired, in kCal per kg, per Litre or per standard cubic metre, as applicable.

CVSF = Calorific value of secondary fuel, in kCal per ml.

ECR = Energy charge rate, in Rupees per kWh sent out.

GHR = Gross station heat rate, in kCal per kWh.

LC = Normative limestone consumption in kg per kWh.

LPL = Weighted average landed price of limestone in Rupees per kg.

LPPF = Weighted average landed price of primary fuel, in Rupees per kg, per litre or per standard cubic metre, as applicable, during the month.

SFC = Specific fuel oil consumption, in ml per kWh.

- (3) The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by rail / road or any other means, and, for the purpose of computation of energy charge, and in case of coal/lignite shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal or lignite dispatched by the coal or lignite supply company during the month as given below :

Pit head generating stations : 0.2%

Non-pit head generating stations : 0.8%

51 Norms of Operation

Recovery of capacity charge, energy charge and incentive by the generating company shall be based on the achievement of the operational norms

The norms of operation as given below shall apply to thermal generating stations

(1) Normative Annual Plant Availability Factor (NAPAF)

- (a) All Thermal generating station - 85 %
- (b) Lignite fired generating station using
Circulatory Fluidized Bed Combustion (CFBC) Technology
 - (i) First three years from COD - 75 %
 - (ii) From next year after completion of 3 years of COD -80 %

(2) Gross Station Heat Rate

- i. Coal-based thermal power generating stations,

During stabilization period	2600 kCal / kWh
Subsequent period	2500 kCal / kWh
- ii. Gas Turbine / Combined Cycle generating stations

Open cycle	2830 kCal / kWh
Combined cycle	1950 kCal / kWh

(c) Secondary fuel oil consumption

- (i) Coal-based generating stations - 1.0 ml / kwh
- (ii) Lignite fired generating stations - 2.0 ml/kWh

(d) Auxiliary Energy Consumption

- (a) Coal-based generating stations with natural draft cooling tower or without cooling tower:

- (i) 200 MW series - 8.5%

- (ii) 500 MW and above

Steam driven boiler feed pumps - 6.0%

Electricity driven boiler feed pumps - 8.5%

Provided that for thermal generating stations with induced draft cooling towers, the norm shall be further increased by - 0.5%

(b) Gas turbine / combined cycle generating stations:

(i) Combined cycle - 3.0%

(ii) Open cycle - 1.0%

(c) Lignite fired thermal generating stations:

iii. All generating stations with 200 MW sets and above:

The auxiliary energy consumption norms shall be 0.5% more than the auxiliary consumption norms of coal-based generating stations as in (d) (a) above

For lignite fired stations using CFBC technology the auxiliary consumption norm shall be 1.5% more than the auxiliary consumption norms of coal based generating stations as above.

B: HYDRO POWER GENERATING STATION**52 Capital cost**

- 52.1 The actual capital expenditure on the date of commercial operation in the case of new investment shall be subject to prudence check by the commission.
- 52.2 Scrutiny of cost estimates by the Commission shall be limited to the reasonableness of the capital cost, financial plan, and interest during construction period, use of efficient technology, and such other matters for determination of tariff.
- 52.3 In case of any abnormal delay in execution of the project causing cost and time overruns attributable due to the failure of the utility, the Commission may not approve the full capitalization of interest and overhead expenses.
- 52.4 Where power purchase agreement entered into between generating company and the beneficiary provides for a ceiling of actual expenditure, the capital expenditure to be considered shall not exceed such ceiling.
- 52.5 The capital cost may include capitalized initial spares up to 1.5% of original Project cost.
- 52.6 The project cost already admitted by the Commission for purpose of tariff determination shall be considered as the original project cost.
- 52.7 The Commission shall issue guidelines for:
- a. Verifying the capital cost of Hydro electric projects by an independent agency or expert and in such a case, the capital cost as vetted by such agency or expert may be considered by Commission after prudence check while determining the tariff for hydro generating station.

- b. Scrutiny and approval of commissioning schedule for hydro electric power projects of a developer, not being a state controlled or owned company as envisaged in the tariff policy, as amended in GOI Resolution No. 23/2/2005-R&R (Vol IV) dated 31.3.2008.

52.8 In case the site of a hydro generating station is awarded to a developer (not being a state controlled or owned company), by a State Government by following a two stage transparent process of bidding, any expenditure incurred or committed to be incurred by the project developer for getting the project site allotted shall not be included in the capital cost.

Provided the capital cost in case of such hydro station shall include:

- (a) Cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity of National R&R policy and (R&R) package as approved; and
- (b) Cost of the developer's 10% contribution towards Rajiv Gandhi Grameen, Vidyutikaran Yojana (RGGVY) project in affected area:

53 Renovation and Modernization

53.1 The generating company for meeting the expenditure on renovation and modernization (R&M) for the purpose of extension of life beyond the useful life of the generating station or a unit thereof, shall make an application before the Commission for approval of the proposal with a detailed project report giving complete scope, justification, cost benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost including foreign exchange component, if any) record of consultation with beneficiaries and any other information considered to be relevant by the generating company.

53.2 Where generating company makes an application for approval of its proposal for renovation and modernization the Commission shall give its approval after due consideration of reasonableness of cost estimates, financing plan, schedule of completion, interest during construction, use of efficient technology, cost benefit analysis and such other factors which the Commission may consider relevant.

53.3 Any expenditure incurred or projected to be incurred and admitted by the Commission after prudent check, based on estimates for renovation and modernization already recovered from original project cost, shall form the basis for determination of tariff.

54 Components of tariff

54.1 Tariff for supply of electricity from a hydro power generating station shall comprise of two parts, namely, annual capacity charges and energy charges to be in the manner provided hereinafter.

54.2 The fixed cost of a generating station eligible for recovery through annual capacity charges shall consist of:

- (a) Return on equity as may be allowed
- (b) Interest on Loan Capital;
- (c) Operation and maintenance expenses;
- (d) Interest on Working Capital;
- (e) Depreciation as may be allowed by the Commission;
- (f) Taxes on Income

54.3 The annual capacity charges recoverable shall be worked out by deducting other income from the total expenses.

55 Interest and finance charges on loan capital

55.1 Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate prevailing therein.

55.2 Provided that the outstanding loan capital shall be adjusted to be consistent with the loan amount determined in accordance with Regulation 27.

55.3 The interest and finance charges attributable to Capital Work in Progress shall be excluded.

55.4 The generating company shall make every effort to swap loans as long as it results in net benefit to the beneficiaries. The costs associated with such swapping shall be borne by the beneficiaries.

55.5 The changes to the loan terms and conditions shall be reflected from the date of such swapping and benefit shared between the beneficiaries and the generating company in a ratio as may be specified by the Commission.

55.6 In case any moratorium period is availed of by the generating company, depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly.

56 Operation and maintenance expenses

56.1 Operation and Maintenance Expenses (O & M Expenses) shall mean the total of all expenditure under the following heads: -

(a) Employee Cost

(b) Repairs and Maintenance

(c) Administration and General Expenses.

- 56.2 Operation and maintenance expenses (O&M Expenses) for the existing generating stations, which have been in operation for 5 years or more in the base year 2007-08 shall be derived on the basis of actual operation and maintenance expenses for the year 2003-04 to 2007-08, based on the audited accounts, excluding abnormal operation and maintenance expenses, if any, after prudent check by the Commission.
- 56.3 The normalized operation and maintenance expenses after prudent check, for the years 2003-04 to 2007-08, shall be escalated at the rate of 5.17% to arrive at the normalized operation and maintenance expenses at the 2007-08 price level and then averaged to arrive at normalized O&M expenses for 2003-04 to 2007-08 price level. The average normal O&M expenses at 2007-08 price level shall be escalated at the rate of 5.72% to arrive at the O&M expenses for the year 2009-10.
- 56.4 The O&M expenses for the year 2009-10 shall be further rationalized considering 50% increase in employee cost on account of pay revision of employees to arrive at the permissible O&M expenses for the year 2009-10.
- 56.5 The O&M expenses for 2009-10 shall be escalated further at the rate of 5.72% per annum as arrive at the operation and maintenance expenses for the subsequent years of the tariff period.

56.6 In case of the hydro generating stations, which have not been in commercial operation for a period of five years as on 1.4.2009, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation & resettlement works). Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @5.17% per annum up to the year 2007-08 and then averaged to arrive at the O&M expenses at 2007-08 price level. It shall be thereafter escalated @ 5.72% per annum to arrive at operation and maintenance expenses in respective year of the tariff period. (The impact of pay revision on employee cost for arriving at the operation and maintenance expenses for the year 2009-10 shall be considered in accordance with the procedure given in proviso to sub-clause (ii) of clause (f) of this regulation).

56.7 In case of hydro generating stations declared under commercial operation on or after 01/04/2009, O&M expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) and shall be subject to annual escalation at 5.72% for the subsequent years.

57 Computation and payment of capacity charge and energy charge for Hydro generating stations.

57.1 Capacity Charges:

- (1) The fixed cost of a hydro generating station shall be computed on annual basis, based on norms specified under these regulations, and recovered on monthly basis under capacity charge (inclusive of incentive) and energy charge, which shall be payable by the beneficiaries in proportion to their respective allocation in the saleable capacity of the generating station, that is to say, in the capacity excluding the free power to the home State:

Provided that during the period between the date of commercial operation of the first unit of the generating station and the date of commercial operation of the generating station, the annual fixed cost shall provisionally be worked out based on the latest estimate of the completion cost for the generating station, for the purpose of determining the capacity charge and energy charge payment during such period.

- (2) The capacity charge (inclusive of incentive) payable to a hydro generating station for a calendar month shall be

$$= AFC \times 0.5 \times NDM / NDY \times (PAFM / NAPAF) \text{ (in Rupees)}$$

Where,

AFC = Annual fixed cost specified for the year, in Rupees.

NAPAF= Normative plant availability factor in percentage

NDM = Number of days in the month

NDY = Number of days in the year

PAFM = Plant availability factor achieved during the month, in percentage

(3) The PAFM shall be computed in accordance with the following formula:

$$N$$

$$PAFM = 10000 \times \sum_{i=1}^N DCi / \{ N \times IC \times (100 - AUX) \} \%$$

$$i=1$$

Where,

AUX = Normative auxiliary energy consumption in percentage

DCi = Declared capacity (in ex-bus MW) for the ith day of the Month which the station can deliver for at least three (3) hours, as certified by the nodal load dispatch centre after the day is over.

IC = Installed capacity (in MW) of the complete generating station

N = Number of days in the month

Note: The Commission, up to the time of availability of the authenticated information regarding availability factor of the plant, may allow recovery of 50% of total annual capacity charges by generating company distributed equally for 12 months subject to verification of availability of the plant by SLDC or any other agency nominated in this regard.

57.2 Energy Charges:

- (1) The energy charge shall be payable by every beneficiary for the total energy scheduled to be supplied to the beneficiary, excluding free energy, if any, during the calendar month, on ex power plant basis, at the computed energy charge rate. Total Energy charge payable to the generating company for a month shall be :

$$= (\text{Energy charge rate in Rs. / kWh}) \times \{\text{Scheduled energy (ex-bus) for the month in kWh}\} \times (100 - \text{FEHS}) / 100.$$

- (2) Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis, for a hydro generating station, shall be determined up to three decimal places based on the following formula, subject to the provisions of clause (4) :

$$\text{ECR} = \text{AFC} \times 0.5 \times 10 / \{ \text{DE} \times (100 - \text{AUX}) \times (100 - \text{FEHS}) \}$$

Where,

DE = Annual design energy specified for the hydro generating station, In MWh, subject to the provision in clause (6) below.

FEHS = Free energy for home State as fixed from time to time, by competent authority.

- (3) In case actual total energy generated by a hydro generating station during a year is less than the design energy for reasons beyond the control of the generating company, the following treatment shall be applied on a rolling basis:
- (i) in case the energy shortfall occurs within ten years from the date of commercial operation of a generating station, the ECR for the year following the year of energy shortfall shall be computed based on the formula specified in clause (2) with the modification that the DE for the year shall be considered as equal to the actual energy generated during the year of the shortfall, till the energy charge shortfall of the previous year has been made up, after which normal ECR shall be applicable;

- (ii) in case the energy shortfall occurs after ten years from the date of commercial operation of a generating station, the following shall apply:

Suppose the specified annual design energy for the station is DE MWh, and the actual energy generated during the concerned (first) and the following (second) financial years is A1 and A2 MWh respectively, A1 being less than DE. Then, the design energy to be considered in the formula in clause (5) of this Regulation for calculating the ECR for the third financial year shall be moderated as $(A1 + A2 - DE)$ MWh, subject to a maximum of DE MWh and a minimum of A1 MWh.

- (iii) Actual energy generated (e.g. A1, A2) shall be arrived at by multiplying the net metered energy sent out from the station by $100 / (100 - AUX)$.

- (4) In case the energy charge rate (ECR) for a hydro generating station, as computed in sub-clause (2) above, exceeds eighty paise per kWh, and the actual saleable energy in a year exceeds $\{DE \times (100 - AUX) \times (100 - FEHS) / 10000\}$ MWh, the Energy charge for the energy in excess of the above shall be billed at eighty paise per kWh only:

Provided that in a year following a year in which total energy generated was less than the design energy for reasons beyond the control of the generating company, the energy charge rate shall be reduced to eighty paise per kWh after the energy charge shortfall of the previous year has been made up.

- (5) The concerned Load Despatch Centre shall finalise the schedules for the hydro generating stations, in consultation with the beneficiaries, for optimal utilization of all the energy declared to be available, which shall be scheduled for all beneficiaries in proportion to their respective allocations in the generating station.

58 Norms of operation

The norms of operation shall be as under:

58.1 Normative annual plant availability factor (NAPAF)

- (a) Storage and pondage type plants where plant availability is not affected by silt and
 - (i) with head variation between Full Reservoir Level (FRL) and Minimum Draw Down Level (MDDL) of upto 8 % 90 %
 - (ii) with head variation between FRL and MDDL of more than 8%
$$= (\text{Head at MDDL} / \text{Rated Head}) \times 0.5 + 0.2$$
- (b) Pondage type plant where plant availability is significantly affected by silt 85%
- (c) Run –of- River type plants: NAPAF to be determined plant-wise, based on 10-day design energy data, moderated by past experience where available / relevant.

Note:

- (i) A further allowance may be made by the Commission under special circumstances, eg. Abnormal silt problem or other operating conditions, and known plant limitations.
- (ii) A further allowance of 5 % may be allowed for difficulties in the North East Region.
- (iii) In case of new hydro electric project the developer shall have the option of approaching the Commission in advance for further above norms.

58.2 Auxiliary energy consumption:

- (a) Surface hydro electric power generating stations with rotating exciters mounted on the generator shaft0.7% of energy generated.

- (b) Surface hydro electric power generating stations with static excitation system.....1.0% of energy generated.
- (c) Underground hydro electric power generating stations with rotating exciters mounted on the generator shaft0.9% of energy generated.
- (d) Underground hydro electric power generating stations with static excitation system1.2% of energy generated.

58.3 Transformation losses

From generation voltage to transmission voltage0.5% of energy generated.

59 Connectivity and SLDC Charges

59.1 Connectivity charges and SLDC charges as determined by the Commission shall be considered as expenses. SLDC and transmission charges paid for energy sold outside the state shall not be considered as expenses for determining generation tariff.

60 Other income

60.1 All Income other than income from sale of energy and net U I charges gained (after introduction of intra-state ABT) shall be grouped as other income. UI penalties shall not be netted off from other income. The UI penalties shall be borne by the generating company.

61 Sale of Infirm Power

61.1 Supply of infirm power shall be accounted as Unscheduled Interchange (UI) and paid for from the regional or State UI pool account at the applicable frequency-linked UI rate:

Provided that any revenue earned by the generating company from sale of infirm power after accounting for the fuel expenses shall be applied for reduction in capital cost:

62 Incentive for completion of hydro electric power generating stations ahead of schedule

- 62.1 In case of commissioning of a hydro electric power generating station or an unit thereof ahead of schedule, the generating station shall become eligible for incentive of an amount equal to the pro-rata amount of reduction in interest during construction achieved by such commissioning, ahead of schedule.
- 62.2 Provided the hydro generating station shall obtain the Commission's approval of project calendar, prior to its implementation for the purpose of claiming the incentive (s).
- 62.3 The incentive shall be recovered through tariff in twelve equal monthly installments during the first year of operation of the generating station.
- 62.4 In case of delay in commissioning, interest during construction for the period of delay shall not be allowed to be capitalized for determination of tariff, unless the delay is not attributable to the generating Company.

63 Unscheduled Interchange (UI) charges (Intra State ABT scenario)

- 63.1 Variation between actual generation or actual drawal and scheduled generation or scheduled drawal shall be accounted for through Unscheduled Interchange (UI) Charges. UI for a generating station shall be equal to its actual generation minus its scheduled generation. UI shall be worked out for each 15 minutes time block. Charges for all UI transactions shall be based on average frequency of the time block and rates as specified by CERC from time to time.
- 63.2 UI charges for intra-state transactions will arise after intra-state ABT is notified by the Commission and becomes effective.

CHAPTER 5

TRANSMISSION

64 Applicability

64.1 The Regulations contained in this Chapter shall apply to determination of tariff for access and use of the intra-State transmission system in the State of Meghalaya:

64.2 Provided that the Commission may deviate from the norms contained in this Part or stipulate alternative norms for particular cases, where it so deems appropriate, having regard to the circumstances of the case: Provided further that the reasons for such deviation shall be recorded in writing.

64.3 The Commission shall be guided by the Regulations contained in this Chapter in specifying the rates, charges, terms and conditions for use of intervening transmission facilities pursuant to an application made in this regard by a Licensee under the proviso to Section 36 of the Act.

65 Components of tariff

Annual Transmission Charges for each year of the Control Period:

65.1 The Annual Transmission Charges for each financial year of the Control Period shall provide for the recovery of the Aggregate Revenue Requirement of the Transmission Licensee for the respective financial year of the Control Period, as reduced by the amount of Non-Tariff Income, income from Other Business and short-term transmission charges of the previous year, as approved by the Commission:

Provided that in case of competitively awarded transmission system projects in pursuance of Section 63 of the Act and in accordance with guidelines for competitive bidding for transmission, the annual transmission charges shall be as per the annual Transmission Service Charges (TSC) quoted by such competitively awarded transmission projects.

65.2 The Annual Transmission Charges of the Transmission Licensee shall be determined by the Commission on the basis of an application for determination of Aggregate Revenue Requirement made by the Transmission Licensee in accordance with Chapter-2 of these Regulations.

65.3 The Annual Expenditure of the Transmission Licensee shall comprise of the following:

- a. Return on equity as may be allowed;
- b. Interest on loan capital;
- c. Depreciation as may be allowed;
- d. Interest on working capital;
- e. Operation and maintenance expenses;
- f. Taxes on Income
- g. Annual License fee

65.4 The Annual Transmission Charge of the Transmission Licensee shall be determined after deducting the following components from the Annual Expenditure as determined above:

- a. Income from surcharge and additional surcharge for Open Access Consumers if any
- b. Transmission/wheeling charges recovered from Open Access Consumers, if any
- c. Authorised portion of Income/ Revenue from other business engaged in by the Licensee for optimum utilization of assets, if any.

66 Business Plan

66.1 Each Transmission Licensee shall submit a Business Plan in the manner specified in Chapter-2 of these Regulations.

67 Capital Investment Plan

67.1 The Transmission Licensee shall submit a detailed capital investment plan, financing plan and physical targets for each year of the Control Period for meeting the requirement of load growth, improvement in quality of supply, reliability, metering, reduction in congestion, etc., to the Commission for approval, as a part of the Business Plan:

Provided that the Capital Investment Plan shall be submitted for each year of the Control Period:

Provided further that the Capital Investment Plan shall be accompanied by such information, particulars and documents as may be required including but not limited to the information such as number of bays, name, configuration and location of grid substations, substation capacity (MVA), transmission line length (ckt-km) showing the need for the proposed investments, alternatives considered, cost/benefit analysis and other aspects that may have a bearing on the transmission charges.

67.2 The Capital Investment Plan of the Transmission Licensee shall be consistent with the transmission system plan for the intra-State transmission system.

68 Renovation and Modernisation

68.1 A transmission licensee shall make an application before the commission for approval of a proposal for meeting expenditure on renovation and modernization (R&M) for the purpose of extension of life of a unit or the transmission system along with a detailed project report giving complete scope, justification, cost benefit analysis, estimated life extension from a reference date, financing package, phasing of expenditure, schedule of completion, reference price level, estimated completed cost including foreign exchange component, if any, record of consultation with beneficiaries and any other information considered to be relevant by the transmission licensee.

68.2 Where the transmission licensee makes an application for approval of its proposal for renovation and modernization, the Commission shall accord approval after due consideration of the reasonableness of the cost estimates, financing package, schedule of completion, interest during construction, use of efficient technology, cost benefit analysis and such other factors as may be considered necessary.

68.3 Any expenditure incurred or projected to be incurred and admitted by the Commission after prudent check based on estimate for renovation and modernization and life extension, and after deducting accumulated depreciation already recovered from the original project cost, shall form the basis for determination of tariff.

69 Operation and Maintenance Expenses

69.1 Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-

- (a) Employee Cost
- (b) Repairs and Maintenance
- (c) Administration and General Expenses.

69.2 The Licensee shall submit O&M expenses budget indicating the expenditure under each head of account showing actual of the last financial year, estimates for the current year and projections for the next financial year.

69.3 The norms for O&M expenses on the basis of circuit kilometers of transmission lines, transformation capacity and number of bays in substations shall be submitted for approval of the Commission.

69.4 The Commission shall verify the budget estimates and projections and allow the expenditure depending on its views about the reasonableness of the projections.

69.5 Increase in O& M expenses due to natural calamities or insurgency or other factors not within its control may be approved by the Commission.

70 Norms of operation

70.1 The norms of operation for the transmission licensee, subject to modifications thereof from time to time shall be as under:

70.2 Auxiliary Energy Consumption in the Sub-Station.

The cost of auxiliary consumption in the sub-station for the purpose of air-conditioning, lighting, and consumption in other equipment shall be borne by the transmission licensee and considered as part of Operation and Maintenance expenses under the head General and Administration Overhead.

70.3 Target Availability of the Transmission System for recovery of full transmission charges. The Normative Annual Transmission Availability Factor (NATAF) of the Transmission System shall be 98%.

71 Payment of transmission charges by customers

71.1 A transmission licensee shall be allowed to recover his net annual revenue requirement for financial year through transmission charges as one or combination of the following charges:

- Transmission charges which may consist of a fixed charge, demand charge and an energy charge or a combination of these;
- Connectivity charge, which shall be levied to meet the cost of connecting the customer to the licensee's transmission system;
- Parallel operation charge shall be levied for Captive Power Plant if the plant is connected with the grid.

71.2 Transmission charges shall be calculated on a monthly basis.

71.3 Transmission charges shall be recovered from distribution licensees and open access customers.

71.4 Transmission charges payable by open access customers shall be decided by the Commission on annual basis depending upon the period of connectivity, load and transactions may allocate charges accordingly.

72 Sharing of Transmission Charges

72.1 In case of more than one beneficiaries of the transmission system, the monthly transmission charges leviable on each beneficiary shall be computed as per the following formula:

Transmission charges for transmission system payable for a month by the beneficiary of that transmission system = $\left[\frac{TC}{12} - TRSC \right] \times \frac{CL}{SCL}$

Where,

TC = Annual Transmission Charges computed in accordance with Regulation 65.

CL = Allotted Transmission Capacity to the beneficiary.

SCL = Sum of the Allotted Transmission Capacities to all the beneficiaries of the State transmission system.

TRSC = Total recovery of transmission charges for the month from short-term transmission customers.

73 Transmission losses and treatment thereof

73.1 The Commission shall fix the norm for transmission losses based on the loss reduction plan provided by the licensee.

The Commission shall make a periodical review of the reduction in transmission losses with reference to the norms fixed by it.

73.2 In the case of failure to achieve the target for loss reduction, the Commission will not allow the excess over the norm as a pass through.

73.3 Only Transmission Losses fixed as provided for in clause (73.1) above shall be debited to energy account of customers of the transmission system.

74 Computation and payment of transmission charge for Intra-State Transmission system.

74.1 The fixed cost of the transmission system shall be computed on annual basis, in accordance with norms contained in these regulations, aggregated as appropriate, and recovered on monthly basis as transmission charge from the users, who shall share these charges in the manner specified.

74.2 The transmission charge (inclusive of incentive) payable for a calendar month for a transmission system or part thereof shall be

$$\text{AFC} \times (\text{NDM} / \text{NDY}) \times (\text{TAFM} / \text{NATAF})$$

Where,

AFC = Annual fixed cost specified for the year, in Rupees

NATAF = Normative annual transmission availability factor, in
percent

NDM = Number of days in the month

NDY = Number of days in the year

TAFM = Transmission system availability factor for the month, in %

The transmission licensee shall raise the bill for the transmission charge (inclusive of incentive) for a month based on its estimate of TAFM.

75 Billing

75.1 Monthly bills shall be raised by the transmission licensee upon distribution licensees and open access customers for the transmission charges approved by the Commission and payments shall be made by the transmission customers directed to the transmission licensee.

CHAPTER 6: DISTRIBUTION BUSINESS

76 Applicability

76.1 The Regulations contained in this Chapter shall apply to the determination of tariff for Retail supply of electricity by a Distribution licensee to its consumers.

Provided that wheeling charges payable to distribution licensee by an open access customers shall be determined in accordance with MSERC (Terms and Conditions of Open Access) Regulations 2012 as applicable and as amended through Orders issued by the Commission from time to time.

77 Aggregate revenue requirement for each financial year of the control period

77.1 The total annual expenses and return on equity on distribution license on each financial year of the control period shall be worked out on the basis of expenses and return on equity allow in terms of these regulations.

77.2 The retail supply tariff of a distribution licensee for each financial year of the control period shall provide a recover ARR of a distribution licensee of the control period as reduced by the amount of non tariff income, income from wheeling in respect of open access customers, income from other business and receive on account of cross subsidy surcharge and additional surcharge for the relevant financial year as approved by the Commission and subsidy from the State Government if any and shall comprise of the following:

- Cost of power purchase
- Transmission charges
- System operation charges
- Interest on loan
- Depreciation as may be allowed
- O & M expenses
- Interest on working capital

- Bad and doubtful debt
- Return on equity as may be allowed
- Income Tax

77.3 Net revenue requirement from sale of electricity shall be aggregate revenue requirement as above minus:

- Non tariff income
- Income from wheeling charges
- Income from open access customers
- Income from other business
- Income from cross subsidy surcharge from open access customers
- Income from additional surcharge on charges of wheeling from open access customer
- Any other revenue or subsidy or grant from the State Government other than subsidy under section 65 of the Act.

78 Business Plan

78.1 The Distribution Licensee shall submit a Business Plan full details as stipulated by the Commission from time to time and in the manner specified in Chapter-2 of these Regulations. The business plan shall comprise among other details like capital investment plan, financing plan and fiscal targets in accordance with the guidelines/formats as may be stipulated by the Commission from time to time.

79 Capital Investment Plan

79.1 The Distribution Licensee shall submit detailed capital investment plan, financing plan and physical targets for each year of the Control Period for meeting the requirement of load growth, reduction in distribution losses, improvement in quality of supply, reliability, metering, consumer services, etc., to the Commission for approval, as a part of the Business Plan:

- 79.2 The investment plan shall be a least cost plan for undertaking investments on strengthening and augmentation of the distribution system for meeting the requirement of load growth, reduction in distribution losses, improvement of supply, reliability, metering, billing and collection system, etc.
- 79.3 The investment plan shall cover all capital expenditure to be undertaken by the distribution licensee in the control period and shall be in such form as may be stipulated by the Commission from time to time.
- 79.4 The Distribution Licensee shall be required to ensure optimum investments to enhance efficiency, productivity and meet performance standards prescribed by the Commission.
- 79.5 The investment shall be accompanied by such information, particulars and documents as may be required showing the need for the investment, alternatives considered, cost in benefit analysis and other aspects which may have a bearing on the wheeling tariff and retail tariff. The investment plan shall also include capitalization schedule and financing plan.
- 79.6 The Commission shall consider and approve the capital investment plan with modification as required. The cost corresponding to the approve investment plan for a given year shall be considered for its revenue requirement.

80 Application for Determination of Tariff

- 80.1 The Distribution licensee shall file an application for determination of tariff for retail supply along with Annual Revenue Requirement (ARR) in the formats specified by the Commission in accordance with the procedure laid down by the Commission.
- 80.2 The application shall contain data for base year, actual and estimated data for the present year and forecasted and target data for all years of the control period based on the business plan.

80.3 The application for determination of tariff by the Distribution licensee shall be accompanied with following information besides Aggregate Revenue Requirement:-

- A statement showing current tariff and applicable terms and conditions of tariff.
- A statement showing Demand / Sales projection for different categories of consumers including slab wise consumption with a note on the method adopted to arrive at the projected growth rate.
- Energy requirement details with Aggregate Technical and Commercial loss and sources of procurement of power.
- A statement containing details of revenue realized during the current year category wise and expected revenue at the current tariff for the ensuing year or the period for which tariff is to be determined.
- A statement showing the subsidy received / receivable from Government at the existing tariff.
- A statement showing the changes in tariff proposed for each category of consumer and the estimated revenue at the revised tariff.
- A statement showing cross subsidy at revised tariff and subsidy committed by the Government, if any.
- Any other information as required by the Commission for determination of tariff for ensuing year.

81 Estimation of Sales

81.1 The accurate projection of category-wise sales is very essential for the assessment of energy input requirement so as to determine the quantum of generation and quantum of energy to be purchased for the correct assessment of revenue requirement for generation and power purchase in the control period.

81.2 The licensee may adopt a suitable methodology like CAGR to arrive at the category wise sales for the current year and estimates for ensuing years based on the past trends.

81.3 The licensee shall submit the restricted demand due to system constraints (in MW), unrestricted demand (in MW) and sale of electricity (in MU) for different categories of consumers in its area of supply for previous year, estimated for the current year and forecast for ensuing year.

Provided where the category-wise unrestricted / restricted demand is not available, these figures may be supplied for the area as a whole. The likely date, by which such data are likely to be available and the steps taken in this regard shall be furnished.

81.4 The forecast for the ensuing year shall be on monthly basis to properly capture the seasonality in demand.

81.5 The Commission shall examine the estimate of sales for reasonableness based on growth in number of consumers and consumption and demand of electricity in previous years and anticipated growth in the next year and any other factor, which the Commission may consider relevant and approve sale of electricity to consumers with such modifications as deemed fit.

81.6 The distribution licensee shall also indicate the particulars of open access consumers, traders and other licensees category wise using its system. The demand and energy wheeled for them shall be shown separately for,

(i) supply within the area of supply and

(ii) supply outside the area of supply.

81.7 Sale of electricity, if any, to electricity traders or other licensees or persons shall be separately indicated. Sale of electricity, if any, outside the licensees area shall be indicated separately in accordance with an agreement executed for this purpose. Full details of swapping/banking of power, if any, shall be submitted with the copies of their agreements to the Commission.

- 81.8 The licensee shall assess and estimate sales to unmetered category of consumers, on the basis of the consumption norms, sample study or on any other basis determined, or otherwise found reasonable by the Commission.
- 81.9 The licensee shall develop a reliable database of each of the consumer categories such as their demand, energy consumption etc, so as to facilitate accurate forecasting of energy sales for ensuing year.
- 81.10 The licensee shall submit quarterly reports to the Commission regarding sale to different categories as approved and ensure that sale to any category is not unduly restricted.
- 81.11 In case additional electricity is required by any particular consumer category not considered by the commission the licensee shall make an application any time during the year, to the Commission for approval. The application shall indicate the need for such change in consumer mix, the additional supply required and the manner in which the licensee proposes to meet the cost of supply for such change of consumer mix.

82 Distribution Losses

- 82.1 The Licensee shall furnish information on Distribution losses for previous year and Current year and the basis on which such losses have been worked out for ensuing years.
- 82.2 The licensee shall also propose a loss reduction programme for the ensuing year as well as for the next three years duly indicating details of the measures proposed for achieving the same.
- 82.3 Based on the information furnished and field studies carried out and the loss reduction program proposed by the licensee, the Commission shall fix suitable targets for reduction of Distribution losses for the period specified by the Commission.

- 82.4 The licensee shall conduct regular energy audit and submit regular energy audit reports for the previous years to substantiate its estimation of energy losses. In case, the licensee is unable to submit energy audit report for previous years, it shall indicate reasons therefore.
- 82.5 The Commission may ask licensee to submit detailed information on voltage wise losses segregated into technical and commercial losses.
- 82.6 In the absence of energy audit reports, the Commission may suo-moto determination the loss levels on the basis of information available.

83 AT&C Losses

- 83.1 The licensee shall provide complete information of the total AT & C Losses during the previous year and that projected for the year for which the application is being made, including the basis on which such losses have been worked out.

Provided that it shall be obligatory on the licensee whose AT&C losses during the previous year are in excess of 30 percent, to project reduction of such losses by a minimum of 3 percent during the year for which a Tariff Application is made. Any shortfall in the projected level of AT&C losses for such year, in this regard, may be penalized by an amount equivalent to the cost of the quantum of energy to be lost due to inability of the licensee to plan and achieve reduction of AT&C losses by a minimum of 3 percent from the previous year's level as may be allowed. Such amount shall be calculated at the average-over-all-unit-cost of sale of power, as approved by the Commission for such year.

Provided further that failure of a licensee to reduce the AT&C losses during the previous year by 3 percent would be penalized on the same basis as stated against clause (a) above. Provided also that in the case of a licensee whose AT&C losses during the previous year were less than 30 percent, it would be obligatory for such licensee to reduce such AT&C losses by a minimum of 1.5 percent only during the year for which a Tariff Application is made. Failure to achieve this level of reduction may be penalized in the same manner as set out in clause (a) above. Further, provided that the overall penalty, of any, may be limited by relevant Central Guidelines, as may be notified from time to time.

84 Estimate of Energy Requirement

- 84.1 Based on the estimated energy sales and the proposed distribution losses, the Licensee shall determine the quantum of electricity required to meet the estimated sales and shall submit to Commission which may approve the power purchase requirement with such modifications, as it deems fit, for the ensuing year or for the tariff period.

85 Power Purchase Cost

- 85.1 The Licensee shall procure power from approved sources. Additional energy required after taking into account the availability of energy from such approved sources, shall be reasonably estimated well in advance and procurement arrangements made for such long and medium term purchases, by following standard contractual procedures. All such purchases shall only be made with the prior approval of the Commission.
- 85.2 For purchase of electricity from sources outside the state, the transmission loss level agreed to in the Power Purchase Agreement (PPA) or worked out from energy accounts of RLDC ./ SLDC shall be taken into account for purchase of power from such sources.
- 85.3 The cost of power purchased from the central generating companies shall be worked out based on the tariff determination by the Central Electricity Regulatory Commission (CERC).
- 85.4 Where power is purchased by the licensee from State-owned existing generating stations, the cost of power purchase shall be worked out based on the price determined by the State Commission and in case of power purchased from Renewable energy sources the quantum and the cost shall be as per the policy approved by the State Commission / Central Commission depending upon their jurisdiction.

85.5 The cost of power purchase from IPPs shall be considered based on existing Power Purchase Agreement if any, till the agreement period is over.

85.6 In case of short-term power purchase necessitated based on unprecedented development, the licensee may resort to short term procurement.

86 Variation in Power Purchase

86.1 Power purchased by the licensee in excess of the approved requirement of power, the Commission shall consider the need for such additional power at the time of truing up of the approved tariff.

87 Transmission and Wheeling Charges

87.1 Transmission, wheeling and other charges payable to the transmission licensee or wheeling of power purchased shall be considered as expense and included in the Power Purchase cost. Transmission & wheeling charges paid for energy sold outside the state shall not be considered as expenses.

88 RLDC and SLDC Charges

88.1 RLDC and SLDC charges as determined by the appropriate Commission shall be considered as expenses. SLDC charges paid for energy sold outside the state shall not be considered as expenses for determining tariff.

89 Unscheduled Interchange (UI) Charges

89.1 Variation between actual drawal and scheduled drawal shall be accounted for through unscheduled Interchange charges (UI). UI Shall be worked out for each 15 minutes time block. Charges for UI transactions shall be based on average frequency of the time block as specified by CERC from time to time.

89.2 Unscheduled Interchange purchases and sales are to be furnished month wise in the formats provided in this Regulation.

89.3 Unscheduled Interchange charges for intra-state transactions will arise after intrastate ABT is notified by the Commission and becomes effective.

90 Fuel and Power Purchase Price Adjustment

90.1 The Commission shall allow the recovery or refund, as the case may be, of additional charge for adjustment to tariff on account of change in fuel related costs of electricity generation and purchase of electricity.

90.2 The additional charge for adjustment shall be recovered or refunded, as the case may be, on a quarterly basis; and shall be taken as per actuals of the last three months.

- 90.3 The generating company or licensee shall put forth a formula for such recovery or refund in their tariff petition for approval by the Commission.
- 90.4 The generating company or licensee shall determine such charge, in accordance with the formula under sub-regulation 90.3 above, and after getting the approval of the recover or refund the same, as the case may be, from their respective beneficiaries / consumers.
- 90.5 The generating company or licensee shall send detail calculation of such charge quarterly to the Commission for scrutiny and approval along with the charge actually recovered / refunded.
- 90.6 The generating company or licensee shall refund or recover, as the case may be, any difference of such charge already recovered by it and now approved by the Commission.
- 90.7 In case of any reduction in power purchase and fuel cost the generating company or licensee shall refund the same by adjustment in the monthly bill within 3 (three) months.
- 90.8 In case of any dispute, an appropriate petition in accordance with the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007 as amended from time to time shall be made before the Commission.

91 Capital cost

- 91.1 The approved Business Plan of the Distribution Licensee shall be the basis for determining the annual allowable capital cost for each financial year for any capital expenditure project initiated on or after April 1, 2015
- 91.2 The capital cost includes, the actual capital expenditure till the date of commercial operation of the licensees distribution system or part thereof within the scope of project be subject to prudence check by the Commission. Scrutiny of the cost estimates by the Commission shall be limited to the reasonableness of the capital cost, financial plan, interest

during construction, use of efficient technology, gestation period and such other matters relating to the system prior to the date of commercial operation and as considered by the Commission as approved for determination of tariff. In case of any abnormal delay in execution of the project causing cost and time overrun attributable to the failure of the utility the Commission may not approve the full capitalization of interest and overhead expenses.

91.3 For each capital expenditure project, the sum total of annual allowable capital cost from the date of commencement of such project till the date of commissioning shall be the original cost of such project.

91.4 The capital cost shall be allowed as specified in these Regulations.

92 Return on Equity

92.1 The Distribution Licensee shall be allowed a return on equity for Distribution Business, as specified in these Regulations.

93 Interest and finance charges on loan capital

93.1 The Distribution Licensee shall be allowed Interest and Finance Charges on loan capital for Distribution Business, as specified in these Regulations.

94 Operation and Maintenance Expenses

94.1 Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-

- Employee Cost
- Repairs and Maintenance
- Administration and General Expenses.

94.2 The distribution Licensee shall submit to the Commission a statement for O&M expenses indicating under each head of account the actuals of last year, estimates for the current year and projections for the ensuing years.

The O & M expenses for the first year of the control period shall be approved by the Commission taking into account the actual expenses for the past and norms/prudence check.

94.3 The Commission shall ensure that the O&M expense are in accordance with the norms fixed by the Commission, and any excess or shortage over the norm shall have to be justified by the licensee.

94.4 In the absence of any norms for O&M expenses, the Commission shall determine operation and maintenance expenses based on prudence check of the estimates submitted by the licensee and consumer price index/wholesale price index/inflation.

94.5 Increase in O& M expenses due to natural calamities or insurgency or other factors not within the control of the distribution licensee may be considered by the Commission for determination of tariff.

95 Bad and Doubtful Debts

95.1 The Commission may after the distribution licensee gets the receivables audited, allow a provision for bad debts not exceeding an amount equal to 1 percent receivables in the revenue requirement of the licensee.

96 Forecast of Revenues

96.1 The revenues of the distribution licensee from the business of the distribution of electricity shall comprise of the following components.

- Revenue from sale of power i.e., tariff income
- Non-tariff income
- Income from surcharge and additional surcharge from open access customer
- Wheeling charges recovered from open access consumers.
- Any grant received from the State Government, other than the subsidy meant for any consumer or class of consumers.
- Net income from other business apportioned as per licensee conditions.

96.2 The non-tariff income relating to distribution business or the retail business as approve by the Commission shall be deducted from the aggregate revenue requirement in calculating the revenue requirement for retail sale of electricity of the distribution licensee. The licensee shall provide full details of his forecast of his non tariff income to the Commission. The indicative list of various heads of non tariff income shall be as follows:

- Income from delayed payment surcharge
- Income from meter rent
- Income from various customer charges
- Income from investments
- Miscellaneous receipts from consumers
- Trading income
- Prior period income
- Interest on staff loans and advances
- Recovery of theft and pilferage of energy
- Any other income

97 Wheeling Charges for Open Access Consumers

97.1 Wheeling charges of a distribution licensee for its distribution system shall be determined in accordance with MSERC (Terms and Conditions of Open Access) Regulations 2012 as applicable and as amended through Orders issued by the Commission from time to time. Income from wheeling charges shall be deducted from the aggregate revenue requirement in calculating revenue requirement and retail tariff.

98 Segregation of Wheeling and Retail supply Business

98.1 The Distribution Licensee shall segregate the accounts of the licensed distribution business into wheeling Business and Retail supply Business in accordance with provisions of the Act. For such period until accounts

are segregated, the licensee shall prepare an allocation statement to apportion costs and revenues to respective business. The Allocation statement, approved by the Board of Directors of the Licensee, shall be accompanied with an explanation of the methodology, which should be consistent over the Control Period.

99 Surcharge

99.1 The amount received by the distribution licensee by way of cross subsidy surcharge shall be deducted from the aggregate revenue requirement in calculating revenue requirement from retail sale of electricity of such distribution licensee. The Commission will determine annually the surcharge payable by the open access consumers so as to meet the current level of cross subsidy level in the system according to proviso 1 section 42 (2) of the Act and in accordance with MSERC (Terms and Conditions of Open Access) Regulations 2012 as applicable and as amended through Orders issued by the Commission from time to time. The open access consumers availing exclusively intra state transmission system shall also pay the cross subsidy surcharge as may be determined by the Commission. The amount of cross subsidy surcharge shall be paid by all open access consumers to the distribution licensee of the area of supply where such consumer is located. The amount of surcharge shall be so calculated so as to meet the current level of cross subsidy being paid by other consumers taking supply from the distribution licensee.

99.2 The amount received by distribution licensee by way of additional surcharge from consumers intends to avail open access to receive supply from a person other than such distribution licensee of his area of supply, shall be deducted from the aggregate revenue requirement in calculating revenue requirement from retail sale of electricity of such distribution licensee. The Commission will determine the amount of additional surcharge that is payable by the open access consumer according to

section 42 (4) of the Act and in accordance with MSERC (Terms and Conditions of Open Access) Regulations 2012 as applicable and as amended through Orders issued by the Commission from time to time. The Commission will determine an additional surcharge that is payable by the open access consumer to meet the fixed cost of such distribution licensee arising out of his obligation to supply according to section 42 (4) of the Act.

100 Revenue at existing tariff

100.1 Revenue from supply of electricity to consumers shall be assessed based on current tariff and quantity of electricity estimated to be sold to them. The revenue shall be calculated category wise.

101 Revenue Gap

101.1 For the tariff year, the difference between the net Annual Revenue Requirement and the expected Revenue at the prevailing tariff shall be the 'Revenue Gap'.

101.2 The revenue gap shall be bridged by measures such as improvements in internal efficiency, utilization of reserves, tariff changes etc. as may be approved by the Commission.

102 Determination of retail supply tariff

102.1 While determining tariff for retail supply the Commission shall be guided by section 61 and 62 of the Act.

102.2 The distribution licensee in the petition shall propose the suitable tariff structures for different categories of consumers. The licensee may further proposed KVAh/ToD tariff for categories considered appropriate by it for implementation.

102.3 The Commission may merge categories and sub categories to evolve a simple, easy to comprehend and logical tariff structure.

102.4A differential tariff for peak and of peak hours may be designed to promote demand side management.

102.5 The Commission may rationalize the tariff structure and may introduce incentive/disincentive in the tariff in the interest of environment, consumers and the licensee. A green charge may be considered in tariff of high consumption/high revenue yielding category of consumers for promotion of renewable energy.

103 Cross-Subsidy

103.1 "Cross-subsidy for a consumer category" in the first phase (as defined below) means the difference between the average tariff from that category and the combined average cost of supply per unit. In the second phase (as defined below) means the difference between the average tariff from that category and the combined per unit cost of supply for that category.

103.2 The Commission shall determine the tariff to progressively reflect the cost of supply of electricity and also reduce cross subsidies within a reasonable period. To this purpose, in the first phase the Commission shall determine tariff so that it progressively reflects combined average unit cost of supply in accordance with National Tariff Policy. In the second phase, the Commission shall consider moving towards the category-wise unit cost of supply as a basis for determination of tariff.

104 Provision of Subsidy

104.1 If the State Government decides to grant any subsidy to any consumer or class of consumers in the tariff determined by the Commission under Section 62 of the Act, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay in advance and in such manner as may be specified by the Commission, to the party affected by grant of subsidy, such amount as to fully

compensate the loss in revenue due to grant of such subsidy.

Provided that no such direction of the State Government shall be operative, if the subsidy payment is not made in accordance with the provisions contained in this regulation and the tariff fixed by the Commission shall be applicable from the date of issue of orders by the Commission in this regard.

105 Performance of Distribution Licensee

105.1 The quality of service provided by the distribution licensee to its consumers shall be an important consideration in the tariff process and shall be judged by the extent of adherence by the licensee to the standards of performance and to various directives issued by the Commission.

105.2 The Commission may by separate orders lay down targets for technical and commercial improvement of the system like availability of supply, reduction in transformers failures, reduction in voltage imbalances, reductions in defective meters, improvement in meter reading, collection system and grievance handling system.

CHAPTER - 8**MISCELLANEOUS****106 Power to remove difficulties**

106.1 If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, do or undertake or direct the licensees to do or undertake things, which in the opinion of the Commission is necessary or expedient for the purpose of removing the difficulties.

107 Power to Amend

107.1 The Commission may, at any time add, vary, alter, modify or amend any provisions of these regulations.

108 Power of relaxation

108.1 The Commission may in public interest and for reason recorded in writing, relax any of the provision of these regulations

109 Interpretation

109.1 If a question arises relating to the interpretation of the provisions of these regulations, the decision of the Commission shall be final.

110 Review of Regulations

110.1 The Commission at the end of three years from the date of publishing these regulations or even earlier, if considered just, proper and desirable by it considering the circumstances then prevailing shall undertake a comprehensive review of these regulations with the objective of improvement in the principles, procedures and methodologies.

111 Savings

111.1 Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be

necessary for ends of justice to meet or to prevent abuses of the process of the Commission.

111.2 Nothing in these regulations shall bar the Commission from adopting, in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

111.3 Nothing in these regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no regulations or codes have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit in the public interest.

J. B. POON,

Secretary

Meghalaya State Electricity Regulatory Commission

Shillong.